

TEXTBOOKS

FIQH

- ACCORDING TO MALIKI SCHOOL OF LAW -

2

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



© Erkam Publications 2015 / 1436 H

FIQH

- II -

Original Title: Fıkıh -II- Ders Kitabı (Maliki)

The author: Hasan Serhat YETER

Doç. Dr. Soner DUMAN

Translator : Ayşe KILINÇ

Coordinator : Yrd. Doç. Dr. Faruk KANGER

Academic Consultant : Lokman HELVACI

Redactor : İsmail ERİŞ

Graphics : Rasim ŞAKİROĞLU

Ahmet Taha BİLGİN

ISBN : 978-9944-83-664-7

Address : İkitelli Organize Sanayi Bölgesi Mahallesi

Atatürk Bulvarı Haseyad 1. Kısım No: 60/3-C

Başakşehir / İstanbul - Turkey

Tel : (90-212) 671-0700 (pbx)

Fax : (90-212) 671-0748

E-mail : info@islamicpublishing.net

Web site: www.islamicpublishing.net

Printed by : Erkam Printhouse

Language : English



TEXTBOOKS

FIQH -II-

(ACCORDING TO THE MALIKI SCHOOL OF ISLAMIC LAW)

Authors

Hasan Serhat YETER
Doç. Dr. Soner DUMAN



CONTENTS

CHAPTER 1

THE METHODOLOGY OF ISLAMIC LAW (JURISPRUDENCE) AND IJTIHAD

A. Definition of the Methodology of Islamic Law and its Emergence	9
B. The Subject, Aim, and Benefits of the Methodology of Islamic Law	10
C. The Essence of Ijtihad and its Necessity	10
D. Taqlid and Ta'assub (Imitation and Bigotry).....	12

CHAPTER 2

SOURCES OF ISLAMIC LAW

A. General Information About the Sources	19
B. The Book (The Holy Qur'an)	20
C. Sunnah	21
D. Ijma'	24
E. Qiyas	26
F. Secondary Sources.....	29

CHAPTER 3

MUSLIM FAMILY LAW

A. The Fundamental Characteristics Needed to be Found in the Family.....	45
B. The Benefits of Marriage	49
C. Matters Needed to Be Paid Attention Before Marriage.....	51
D. The Impediments of Marriage	52
E. Nonbinding Marriages and the Authority of the Guardians.....	54
F. Invalid Marriages in Islam.....	55
G. Factors that Should be Known About a Marriage Contract and Wedding Ceremony	56
H. Mahr (Dowry)	58
Reading Text: Embrace Islam and I Will Marry You	60
I. Nafaqa (Ensuring The Maintenance of the Family Members).....	61
J. The Woman's Obedience to her Husband and its Limits	62
Reading Text: Getting Along Well in the Family	64
K. The Termination of Marriage (Divorce).....	65
L. Types of Divorce.....	66
M. Iddah and Its Conditions.....	69
N. Undertaking the Responsibility of Upbringing the Children (Hidanah)	70

CHAPTER 4

ECONOMIC LIFE IN ISLAM

A. The Importance that Islam Places Upon Labor and Trade	79
Reading Text: Calloused Hands.....	81
B. The Religious Dimensions of Obtaining Sustenance	82
Reading Text: Permissible Goods That Belong to a Pious Person	85
C. The Rights and Responsibilities of Workers	86
D. Things Prohibited in Trading.....	86

CHAPTER 5

HALAL (LAWFUL) AND HARAM (FORBIDDEN)

A. The Basic Principles and Laws Of Islam in Respect To Halal and Haram.....	101
B. Foods and Drinks that are Halal and Haram	103
C. Rulings About Hunting Animals.....	104
D. Rulings Related to Clothes	105
E. Rulings About Adornments and Decoration	111
F. Rulings Related To Using Furniture and Decor of the Home.....	113
G. Rulings About Entertainment And Leisure	115
H. Oath and Vow	119
I. Uqubat (Worldly Punishment and Sanctions).....	121
 Bibliography	 131
Answers Keys	133

CHAPTER 1

THE METHODOLOGY OF ISLAMIC LAW (JURISPRUDENCE) AND IJTIHAD

CONTENTS

- A. DEFINITION OF THE METHODOLOGY OF ISLAMIC LAW AND ITS EMERGENCE
- B. THE SUBJECT, AIM, AND BENEFITS OF THE METHODOLOGY OF ISLAMIC LAW
- C. THE ESSENCE OF IJTIHAD AND ITS NECESSITY
- D. TAQLID AND TA'ASSUB (IMITATION AND BIGOTRY)



PREPARATORY WORKS

1. Research the role of the Methodology of Islamic Law in understanding religious rulings.
2. How did the emergence of the methodology of Islamic Law happen? Analyse the relationship between the Science of Islamic Law and its methodology.
3. When you come across a religious issue, what steps do you take in order to solve it? To whom and to which institution do you consult? Think about it.
4. Do we have to follow a particular School of Islamic Law (Madhhab)? Discuss.

A. DEFINITION OF THE METHODOLOGY OF ISLAMIC LAW AND ITS EMERGENCE

I. Definition

Fiqh (Jurisprudence) is defined as **“The system used to derive Islamic rulings related to practice from the detailed sources.”**

“Detailed sources” means the verses of the Qur’an, ahadith (or sayings of the Prophet), ijma’ (rulings reached through the consensus of the jurists) or qiyas (analogy) which are directly related to the issue in question whose ruling is being searched.

The expression “related to practice” refers to the practice and actions of daily life and excludes the rules and regulations regarding faith and ethics.

“Islamic ruling” refers to “Guidance (clarification) of the Almighty Allah regarding the behaviour of mankind” or “the consequences of these clarifications”. This expression excludes the deductions reached by human senses or reasoning.

II. The Emergence Of The Methodology Of Islamic Law

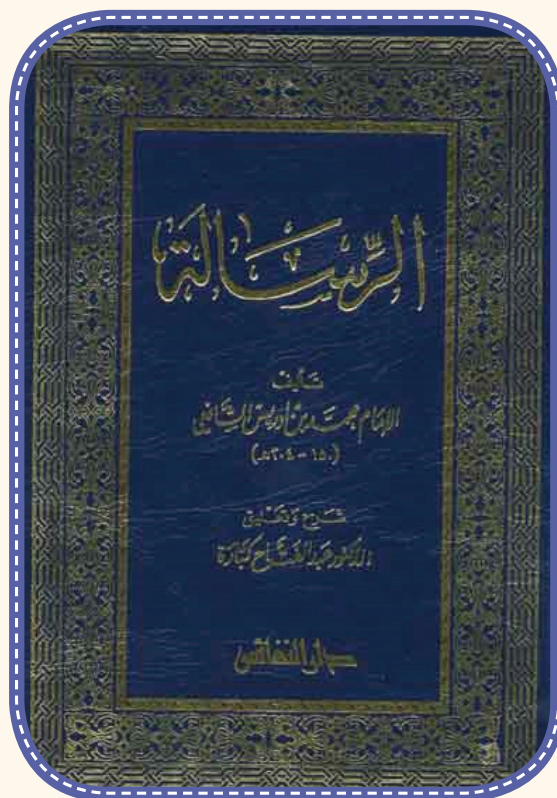
After the Prophet (peace be upon him) passed away, the most prominent companions of the Prophet took on the task of issuing rulings and judgment regarding the problems of Muslim society. They were very proficient in the Arabic language, which is the language of the Qur’an and Sunnah, and they knew the details and purpose of every ruling.

When they were in need of a ruling regarding a topic, they would turn to the Qur’an, and when they could not find what they were looking for in the Qur’an, they would turn to the Sunnah of the Prophet, and when they couldn’t find it there either, they would use their personal judgement and make Ijtihad.

The Mujtahids of the generation that followed the Companions of the Prophet (or the generation

of Tabi’un) took the same path. After the eras of the generation of the Companions and that of At-Tabi’un had passed, new issues arose. The emergence of Usul al-Fiqh (the Methodology of Islamic Jurisprudence) as an independent branch of study took place towards the end of the second Hijri century.

In order to avoid the possibility of issuing subjective rulings based on personal feelings, the Muslim jurists established guidelines whereby rulings were extracted from the sources of Islamic Law. The rules and principles of the Methodology of Islamic Law were compiled for the first time in the book of **Imam Shafi’i** titled **“al-Risala”**.



B. THE SUBJECT, AIM, AND BENEFITS OF THE METHODOLOGY OF ISLAMIC LAW

I. The Subject of the Methodology of Islamic Law and its aim

The Science the Methodology of Islamic Law deals with four main subjects:

Mukallaf (Legally Responsible Person): Identifying those who are responsible of carrying out religious responsibilities and duties, the issues related to competency of mukallaf, and issues related to things which prevent competency.

Shari'a (Religious) Rulings: The values attached to the obligations of a Mukallaf according to their categories: "fard (obligatory), wajib (necessary), mubah (permissible), makruh (disliked) and haram (forbidden)" and other issues associated with a ruling, i.e. Wad'i rulings.

Shari'a (Religious) Sources: these are the sources such as the Qur'an, Sunnah of the Prophet, Ijma' and Qiyas that the rulings of Shari'a are derived from.

Mujtahid: Those who have the authority and knowledge to derive a religious ruling from the religious sources.

The methodology of Islamic Law is a branch of Islamic science which provides us with necessary tools to reach the correct religious rulings. **The aim of the methodology of Islamic Law** is to show the way how to derive the rulings from the sources, and to help a Mujtahid not to make an error in judgment with the help of this science specified principles and guidelines.

II. The benefits of Islamic Law

The benefits of studying the methodology of Islamic Jurisprudence (usul al-Fiqh) are:

- It helps us understand the Qur'an and Ahadith in a correct manner.
- It helps us better understand the rulings issued by Mujtahids.
- It helps us differentiate between various opinions of Muslim jurists and choose the one that sounds more credible.
- It shows which method to follow while answering the questions related to Fiqh.
- It teaches the importance of Ijtihad and makes us aware of how crucial it is.

C. THE ESSENCE OF IJTIHAD AND ITS NECESSITY

I. Definition of Ijtihad

The Ijtihad literally refers to the energy, striving and putting in utmost effort and hardwork in order to obtain something that is quite difficult to be achieved. In legal terminology, on the other hand it means **"A Muslim jurist's interpretation of the Qur'an and Sunnah in accordance with the specific guidelines and principles of the methodology of Islamic law, and his effort in finding out the correct religious rulings of the newly faced problems of Muslim society in order to live and know religion through the sources of Islamic law."**

II. Encouragement for Ijtihad in the Qur'an and Sunnah

We can find verses in the Qur'an and sayings of the Prophet that encourage and in fact command Ijtihad. The following are examples:

The Qur'an expresses that Muslims must consult each other when conducting their affairs (al-Shura, 42: 38).

The Prophet (pbuh) advised his companions to rule with their own judgment and thus his goal was to educate them. For example, one day two claimants came to the Prophet (pbuh). He turned to his companion Uqba (r.a.) who was among the most

LET'S NOTE

The Prophet not only performed Ijtihad himself but also opened the doors of Ijtihad to his companions. For example; When the Prophet asked Muadh bin Jabal, whom the Prophet (pbuh) sent to Yemen as a governor: "If you came across a problem that you couldn't solve by using the Qur'an and Sunnah, what would you do?" Muadh replied: "If I do not find it in the Qur'an and Sunnah, I shall do my best to form an opinion and I shall spare no effort." The Messenger of Allah was pleased with Muadh's response. (Abu Dawud, Aqdiya, 11; Tirmidhi, Ahkam, 3)

prominent companions and said to him: "Settle their dispute!" Uqba replied "O Messenger of Allah, how can I attempt to solve it while you are present!" The Prophet then said, "*Settle it, If you do it correctly, you will receive ten rewards (from Allah), and if you err, you will receive one.*"

As can be seen, The Prophet (pbuh) not only gave permission to perform Ijtihad, but he also encouraged it. He firmly stated that the fear of making an error should not be an obstacle in the way of Ijtihad.

III. The Necessity of Ijtihad

The obligation to follow Allah and His Messenger shows the necessity of making ijtihad on the basis of the essence and teachings of the Qur'an and Sunnah.

The Qur'an and Sunnah, the two main sources of Islamic law, have not issued a ruling for every single problem that will arise until the Day of Judgment, which is not actually possible. The rulings in the Qur'an and Sunnah are limited while the incidents, issues, and circumstances are unlimited. Thus, Ijtihad is an important way of evaluating and analyzing the new problems and issuing the appropriate judgments for them.

A Muslim is obliged to spend every moment of his life within the boundaries specified by Allah and His Messenger. In order to fulfill this principle in the best manner, one needs to examine and re-

vises the previously given judgments in accordance with the circumstances and conditions of the current era.

IV. Requirements to be a Mujtahid

Ijtihad can and should be carried out anytime and anywhere, but it should be done by abiding by its guidelines. The following are the qualities that are required to be found in a person who makes Ijtihad:

Knowledge of the Qur'an: A mujtahid must know the Qur'an well, He must know the entire Qur'an in terms of its meaning and interpretation, and be informed well about the verses that are related to legal matters. Additionally, the mujtahid must also know the reasons of revelation for every verse; which chapters of the Qur'an were revealed in Mecca and which ones revealed in Medina; which verses were abrogating (*an-nasikh*) and which ones were abrogated (*al-mansukh*); and he must also have information about other issues such as *muhkam* (verse with clear meanings) and *mutashabih* (verses with obscure meanings).

Knowledge of the Sunnah: It is required for a mujtahid to know whether the ahadith (sayings of the Prophet) are *sahih* (authentic) or weak. He must also be knowledgeable about the chain of narration (*isnad*). He should be able to distinguish between the ahadith that are *mutawatir* (narrated through a group of narrators in all generations), *mashhur* (narrated by 3 or more narrators after the first generation) and *ahad* (narrations which do not have the above mentioned conditions). He should also know *asbab al-wurud* (the reason why the Prophet (pbuh) said or did that specific action) and the rules of preference between narrations. It is not enough to have knowledge only about ahadith related to legal matters, because other types of ahadith may also affect the ruling.

Knowledge about Ijma' (Consensus): A mujtahid must have knowledge about the rulings issued by the consensus of the jurists and the ones upon which there is a disagreement.

Knowledge about the Fundamentals and Principles of Islamic Law: He needs to be well informed about the methodology of Islamic Law and process of issuing a judgment, and he must also

know the application of *qiyas* (analogical deduction).

Competence in Arabic language: A mujtahid must know Arabic well enough to understand the texts (verses and sayings of the Prophet) and their contentions.

Knowledge regarding ideals of Islam: A mujtahid must be aware of the objects and ideals of Islam in order to avoid making an Ijtihad that contradicts with Islam.

Knowledge of Preference: A mujtahid must be acquainted with the hierarchic order of the sources that contradict with each other and how to solve such contradictions.

Knowledge about the issue that Ijtihad is being applied to: He must have thorough knowledge about the issue at hand, its related conditions and context, and have the necessary scientific knowledge related to it.

Competence/Ability: A mujtahid must be naturally skilled to carry out Ijtihad.

To live in accordance with the Principles of Islam: A mujtahid should also be a pious person and live in accordance with the principles of Islam. He must abide by Islamic rulings and avoid what is forbidden.

D. IMITATION (TAQLID) AND BIGOTRY (TAASSUB)

Taqlid means to follow or imitate someone else's view without having any knowledge about the strength and validity of the basis of his views. One who practices *taqlid* is called a **muqallid** (imitator).

Taassub can be defined as following a legal view without knowing or questioning its credibility; defending a view to be certain when in fact it is not; not admitting the fact that the views he follow may be refuted or contested. One who acts with *ta-assub* is referred to as a **mutaassib**.

Muslims who do not have the necessary qualities to perform Ijtihad themselves have to imitate (follow) a mujtahid, because a **mukallaf** (religiously responsible believers) must learn the rulings of Islam and put them into practice. However we cannot expect every Muslim to be able to deduct the religious rulings from their sources and perform Ijtihad regarding legal matters. Given the fact that we are also in need of people who work in trade, agriculture and other areas, imitation in regards to legal matter has been disliked yet allowed for those who are not entitled to perform Ijtihad. The verses "**Allah has not imposed any difficulties on you (in religion)**" (al-Hajj: 78), and "**Ask the people of knowledge, if you know not.**" (al-Nahl: 43) prove the credibility of the above statement.

A Muslim who follows a certain *madhhab* (school of Islamic law) and a mujtahid should also pay attention to the following principles

- A *muqallid* must avoid *ta'assub* (bigotry) in following a madhhab.
- Madhhabs are not religions, but they are interpretations of Islam which shed light on how to practice it. The fact that madhhabs present various opinions is not a drawback for Muslims, but on the contrary it is richness for the believers.
- We must have faith that mujtahids deserve merit whether they are absolutely correct or wrong in their judgment. It is our duty to admit their high status and value, to respect them, to be polite to them, and to make *du'a* (supplication) for their goodness.
- If a Muslim is certain that his madhhab is not entirely correct regarding a given matter, he may follow another madhhab in that matter if he is sure that the other madhhab has a more accurate opinion.

Sunni Muslims living in various continents worldwide follow one of the four Sunni madhhabs. A Muslim chooses to follow one of the four madhhabs; performs his acts of worship and deeds according to the exposition of his chosen madhhab. There is no such obligation as a Muslim must stick

to the very same madhhab in his entire life. For this reason, he who wishes to change from one madhhab to another may do so. For instance, a Muslim who adheres to the Maliki madhhab may choose to follow the Hanafi madhhab; likewise another Muslim who follows the Hanafi madhhab is allowed to follow the Maliki madhhab if he wishes.

However, one who changes from a madhhab to another is obliged to learn the religious rulings in his newly chosen madhhab to be able to perform worship in the correct manner. For example, a person who shifts from Shafi'i to Hanbali should at least learn the compulsory acts of wudu (ablution), the things that invalidate one's wudu, the essential and required acts of ritual prayer (*arkan al-salah*). Otherwise, those who change their madhhab without learning at least the basic principles may make mistakes in performing their acts of worship.

Just as it is allowed to change from a mazhab to another in all matters, it is also allowed to follow a ruling from another mazhab when one's own mazhab does not provide an adequate answer or solution regarding that matter. This is permitted. However it should be noted that the imitation cannot be arbitrary or based on one's desire. It is permitted only when there is a necessity to do so. One who imitates another madhhab must consider the following points:

Firstly: If one would like to imitate a practice of another madhhab, the condition is that he must have not already performed it (i.e. it must be the first time). For example if a person who is a member of the Shafi'i madhhab touches his wife with his hand before he performs his prayer and remembers



it after he has finished, and goes on to say: "That's fine, my wudu is still valid according to the Hanafi madhhab" and follows the Hanafi madhhab in this specific matter, his prayer is in fact not valid.

Secondly: It is not permissible for a *muqallid* (imitator) to choose and imitate what is simple and easy in every madhhab and mix them. This type of behavior can be considered an act of practicing things from various madhhabs at the same time that may contradict with each other, which is referred to as "*talfik*" and this type of imitation is not permitted.



Can a Muslim practice Islam in this era without adhering to a madhhab just like the companions of the Prophet? Discuss in class.

BOX OF WISDOM

To avoid blind imitation and bigotry we must take a look at the following statements of the mujtahid imams :

“It is not legit to issue a fatwa (religious opinion) based on one of our views without any knowledge and examination of its sources or basis, and where and under what circumstances we have reached that view.” (Abu Hanifa)

“I’m a human being. My judgments may be correct or incorrect. Therefore, investigate them. Accept every word of mine that is in accordance with Qur’an and Sunnah and leave the one that is not.” (Imam Malik)

“One who seeks knowledge without knowing its basis is like someone who collects firewood in the dark. While carrying the pile of firewood that he has collected, he is unaware of the poisonous snake hidden in the pile.” (Imam Shafii)

“Do not blindly follow me, neither Malik and Sawri nor Awzai. Take the information and evidence from their sources.” (Ahmad b. Hanbal)



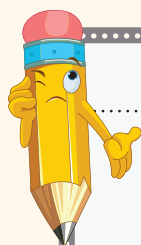
EVALUATION ACTIVITIES

1. Define and explain the methodology of Islamic Law.
2. How was the methodology of Islamic Law born? Explain.
3. What are the benefits of the methodology of Islamic Law? Write them down.
4. With which reply of Muadh b. Jabal was the Prophet (pbuh) pleased? Explain.
5. What are the qualifications required to be a Mujtahid? Write them down.
6. Give information about taqlid and ta'assub and research about the permissibility of imitating a madhhab.



MATCH THE PAIRS

1	Mujtahid		<i>Bigotry</i>
2	(Shar'i) Religious rulings		<i>Rulings issued by a mujtahid</i>
3	Taqlid		<i>Rulings such as Fard, Sunnah, Haram etc.</i>
4	Sources of Religious Rulings	1	<i>One who is qualified to issue religious rulings</i>
5	Ta'assub		<i>Imitating exactly what someone else does</i>
6	Ijtihad		<i>Qur'an, sunnah, ijma, qiyas etc.</i>



MULTIPLE CHOICE QUESTIONS

1. Which of the following is the name of the first book written about the methodology of Islamic Law and its writer?
 - A) Imam Shatibi - al-Muwafaka
 - B) Imam Zaid b. Ali - al-Majmu'
 - C) Imam Abu Hanifa - Fiqh al-Akbar
 - D) Imam Shafi - al-Risala
2. Which of the following is not from the contents and benefits of the methodology of Islamic Law?
 - A) Ensuring that Fiqh topics are understood more clearly
 - B) Showing the guidelines when giving a religious opinion
 - C) To teach the differences of opinion between madhhabs of kalam
 - D) To help us comprehend the importance of Ijtihad
3. Two claimants came to the Prophet (pbuh), So the Prophet told his companion Uqba (r.a.); "Be the judge and settle the issue between them." When Uqba replied, "How can I issue a judgment while you are present, O Messenger of Allah!" what was the Prophet's reply?
 - A) You are right. Nobody's judgment matters while I am present.
 - B) Be the judge, if you err, you will receive one reward, if you are right you will receive ten.
 - C) Tell your religious opinion. Obey me, do not disobey me!
 - D) Judging is a very delicate task, not everybody can do it.
4. Which of the following are not among the requirements to be a Mujtahid?
 - A) Living a pious life
 - B) Having read tafsir books
 - C) Knowledge about the objects of Islam
 - D) Being naturally skilled
5. Which one of the following is not appropriate in terms of Fiqh?
 - A) Imitating another madhhab in times of necessity
 - B) Changing madhhabs
 - C) Combining or joining madhhabs
 - D) Practice based on a strong religious opinion (fatwa)

CHAPTER 2

SOURCES OF ISLAMIC LAW

CONTENTS

- A. GENERAL INFORMATION ABOUT THE SOURCES
- B. THE BOOK (THE HOLY QUR'AN)
- C. SUNNAH
- D. IJMA'
- E. QIYAS
- F. SECONDARY SOURCES



PREPARATORY WORKS

1. Where would you search the answers to your questions regarding religious matters?
2. Research the contents of the Qur'an and Sunnah with the help of what you have learned in tafsir and hadith classes.
3. Why have the four sources, i.e. the Qur'an, Sunnah, ijma, and Qiyas, come into prominence in Fiqh? Research.
4. How are conflicts related to Fiqh around you solved? Research the effects of local customs and culture in the resolution process.

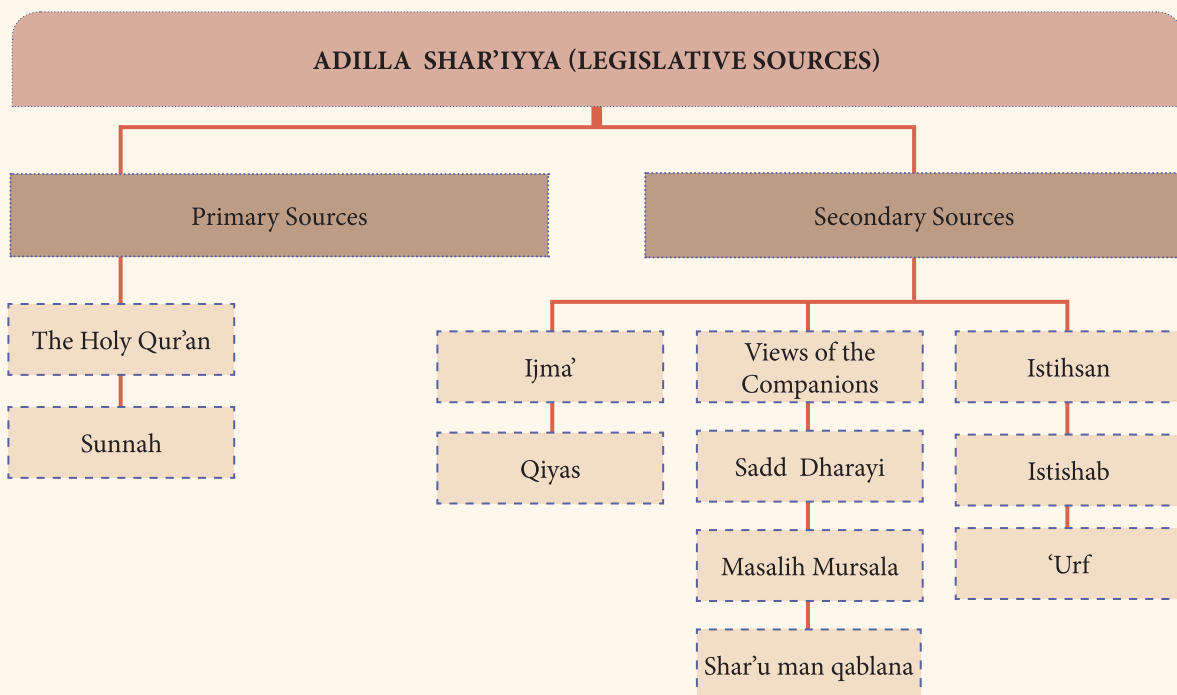
A. GENERAL INFORMATION ABOUT THE SOURCES

The lexical definition of ***dalil*** is “guide, something that helps to support a claim.” The plural form of *dalil* is “***dalail***” or “***adilla***.” The definition of *dalil* (source) in Islamic legal terminology is “**the thing that guides one to the desired religious or jurisdictional solution after thorough research and thinking.**” If the judgment reached by means of *dalil* is correct, this judgment is called ‘***ilm*** (certain knowledge) and the *dalil* used in the process is called as “***dalil qat’i* or certain evidence.**” On the other hand religious rulings whose credibility is not definite are referred to as ***zann*** (assumption) and the evidence that has led to this opinion is called “***dalil zanni* – or evidence based on assumption.**”

Islamic rulings related to this life and the afterlife have all been established by Muslim jurists (*mujtahids*). *Mujtahids* follow a particular meth-

od when issuing a judgment: They first refer to the sources named as “***adilla shar’iyya***” (legislative sources) which are used in solving Islamic matters. Four of the sources of Islamic law have been agreed upon and consulted by almost all jurists when issuing a ruling. These are: **The Book (The Qur’an), Sunnah, Ijma’ and Qiyas.** These four sources are referred to as “***al-adilla al-arba’a***” meaning “the four most important agreed upon sources.”

Primary Sources (Asli): The Qur’an and Sunnah are the two primary sources of Islam. **Secondary Sources (Fari’):** These are the sources that are derived from the primary sources. The most important ones of the secondary sources are: *Ijma’*, *Qiyas*, Opinions of the Companions of the Prophet (Ashab), *Sad-al-Dharai’*, *Masalih al-Mursala*, ‘*Urf*, *Istihsan*, *Istishab* and *Shar’u man Qablana*.



B. THE BOOK (THE HOLY QUR'AN)



In Methodology of Islamic Law, “the book” is used to refer to the Qur’an.

The Qur’an’s Way of Explanation of the Rulings

1- The Qur’an discusses some matters in detail and ties them to a ruling. For example, the rulings such as the inheritance shares of each heir, the rulings related to marriage and divorce, and some types of punishment can be given as examples of this type of clarification.

2- The Qur’an, at times, discusses a matter briefly (mujmal) and doesn’t delve into details. Detailed explanation is delivered through Sunnah, i.e. traditions of the Prophet. This is the general fashion of explanation and clarification that is adopted by the Qur’an.

The Qur’an does not provide definite rulings as the codes of law do, however it gives the basis and guidelines upon which Islamic law is built. The Qur’an emphasizes on key principles such as abiding by agreements, being true to one’s word, justice,

abstaining from fraud and cheating, lying, false accusations, avoiding extravagance and showing off, giving importance to consensus and consultation and the reciprocal act of pleasing one another. The Qur’an, for instance, has found it sufficient to state “Take, [O, Muhammad], from their wealth a charity”¹ however has not given further details about this command thus it has assigned the role of detailed clarification to the Prophet (pbuh). The Qur’an has chosen the same path when discussing qisas: “O you who have believed, prescribed for you is legal retribution for those murdered (Qisas),”² “And there is for you in legal retribution [saving of] life, O you [people] of understanding, that you may become righteous.”³ The Qur’an does not identify the conditions of Qisas, however Sunnah does.

The Qur’an as a source of Islamic Law and its importance

The Book (Qur’an) is the basis and foremost source of Islamic Law. It is the attitude of non-believers, tyrants and sinners to issue crucial rulings that affect people without approaching or consulting the Qur’an first. This matter has been pointed out in the Qur’an as follows:

“Indeed, We sent down the Torah, in which was guidance and light. The prophets who submitted [to Allah] judged by it for the Jews, as did the rabbis and scholars by that with which they were entrusted of the Scripture of Allah, and they were witnesses thereto. So do not fear the people but fear Me, and do not exchange My verses for a small price. And whoever does not judge by what Allah has revealed - then it is those who are the disbelievers. And We ordained for them therein a life for a life, an eye for an eye, a nose for a nose, an ear for an ear, a tooth for a tooth, and for wounds is legal retribution. But whoever gives [up his right as] charity, it is an expiation for him. And whoever does not judge by what Allah has

1. Al-Tawba 9: 103
2. Al-Baqara 2: 179
3. Al-Baqara 2: 178

revealed - then it is those who are the wrongdoers.

And We sent, following in their footsteps, Jesus, the son of Mary, confirming that which came before him in the Torah; and We gave him the Gospel, in which was guidance and light and confirming that which preceded it of the Torah as guidance and instruction for the righteous. And let the People of the Gospel judge by what Allah has revealed therein. And whoever does not judge by what Allah has revealed - then it is those who are the defiantly disobedient. And We have revealed to you, [O Muhammad], the Book in truth, confirming that which preceded it of the Scripture and as a criterion over it. So judge between them by what Allah has revealed and do not follow their inclinations away from what has come to you of the truth. To each of you We prescribed a law and a method. Had Allah willed, He would have made you one nation [united in religion], but [He intended] to test you in what He

has given you; so race to [all that is] good. To Allah is your return all together, and He will [then] inform you concerning that over which you used to differ.

And judge, [O Muhammad], between them by what Allah has revealed and do not follow their inclinations and beware of them, lest they tempt you away from some of what Allah has revealed to you. And if they turn away - then know that Allah only intends to afflict them with some of their [own] sins. And indeed, many among the people are defiantly disobedient.

Then is it the judgment of [the time of] ignorance they desire? But who is better than Allah in judgment for a people who are certain [in faith].”⁴

It is Allah the Almighty who has made the Qur'an the first source of Islamic law and jurisprudence. Therefore, it is a must to consult the Qur'an before anything else when issuing a ruling.

4. Al-Maidah 3: 44-50

C. SUNNAH



Sunnah is the sayings of the Prophet (pbuh) – other than the Qur'an –, his practices, and the actions which gained his approval. Sunnah is the second source of Islamic Law after the Qur'an.

Almighty Allah had given the task of explaining and interpreting the verses of the Qur'an to Prophet Muhammad (pbuh) and He has stated this in the Qur'an: “And we have sent

down the message (Qur'an) unto you, so that you may explain clearly to men what is sent for them, and that they may give thought.”⁵

Thus, Allah (swt) sent Sunnah as a complement to the Qur'an, so that the Qur'an may be fully understood.

5. Al-Nahl, 16: 44

Sunnah, in terms of its nature, can be divided into three categories:

a- Verbal Sunnah (Qawli): The sayings and speech of the Prophet (other than the verses of the Qur'an) that he has articulated in various situations and for various purposes during his lifetime. This type of Sunnah is also called **Hadith**.

b- Practiced Sunnah (Fi'li): These are the actions and behavior of the Prophet (pbuh). His actions while performing ablution (Wudu), ritual prayer (Salah) and pilgrimage (Hajj) are examples of practiced Sunnah.

c- Tacit Approval (Taqriri): This type of Sunnah consists of the Prophet's approvals and acceptances. This involves the words, actions and behaviors which happened in the presence of the Prophet, or things which did not happen in his presence but he heard about them; and his nod or smile, or his silence regarding them show his implicit approval.



The Importance of Sunnah as a source of Islamic Law

Allah has identified Sunnah as the second source of Islamic Law in various verses of the Qur'an:

“O you who believe! Obey Allah, and obey the Messenger, and those charged with authority among you. If you differ in anything among yourselves, refer it to Allah and His Messenger, if you do believe in Allah and the Last Day: That is best, and most suitable for final determination.”⁶

“He who obeys the Messenger, obeys Allah: But if any turn away, We have not sent you to watch over their (evil deeds).”⁷

“O you who believe! Obey Allah, and obey the messenger, and make not vain your deeds!”⁸

“What Allah has bestowed on His Messenger (and taken away) from the people of the townships, - belongs to Allah, - to His Messenger and to kindred and orphans, the needy and the wayfarer; In order that it may not (merely) make a circuit between the wealthy among you. So take what the Messenger assigns to you, and deny yourselves that which he withholds from you. And fear Allah; for Allah is strict in Punishment.”⁹

“It is not fitting for a Believer, man or woman, when a matter has been decided by Allah and His Messenger to have any option about their decision: if any one disobeys Allah and His Messenger, he is indeed on a clearly wrong Path.”¹⁰

“O you who believe! Obey Allah and His Messenger, and turn not away from him when you hear (him speak)!”¹¹

“When the Believers are asked to decide a matter before Allah and His Messenger, they reply “We have heard and we obey.” Verily it is those who have attained salvation.”

6. Al-Nisa, 4: 59

7. Al-Nisa, 4: 80

8. Muhammad, 47: 33

9. Al-Hashr, 59: 7

10. Al-Ahzab 33: 36

11. Al-Anfal 8: 20

Our Prophet (pbuh) said the following about Sunnah's status of being the second source:

*"I have left you two things, the Book of Allah and Sunnah. If you strictly adhere to them, you shall never go astray."*¹²

*"I have been given The Qur'an and that which is similar to it."*¹³

The Prophet replied with the following to those who say *"We only consider the Qur'an"*: *"May I never see any one of you leaning on his couch and when my command reaches him he says, 'I do not know that which is other than the word of Allah, I only take that which is in the Qur'an.'"*¹⁴

The Binding Aspect of The Prophet's Actions

Although having been already revealed in The Qur'an, a lot of issues were left to the Prophet to be clarified. These issues are: a) Faith and the unseen b) Halal (permitted) and Haram (Forbidden) c) Commands and Prohibitions d) Acts of Worship e) Punishments f) Transactions g) Moral duties h) Rulings and guidelines related to medicine.

Some of the Prophet's actions have not been directly regarded within the concept of Sunnah such as: a) The Prophet's humanly actions, his physical necessities and so on. b) Administrative and social matters that do not have a text or revelation regarding them c) *Ijtihad* of a judge d) His worldly affairs (army arrangement, agriculture, medical intervention and practices based on skill and experience).

Scholars of Fiqh analyzed such actions and behaviors of the Prophet (pbuh) in terms of whether it is necessary to follow them or not. And they have collected them under the following sub-titles:

1- The Prophet's humanly affairs: His manner of conducting human affairs such as eating, drinking, dressing, sleeping and his actions where he reflected his personal experience and morals such as trade, agriculture, war tactics and diagnosis of illnesses. We are not required, in other words it is not compulsory upon us to follow them.

2- The Prophet's actions special to him (based on the fact that he was a prophet): The requirement of his performance of the night prayer (*tahajjud*), his fasting for two or three days consecutively without eating or drinking anything at all (*sawm wisal*) and his marriage with more than four wives. These actions are unique to him alone and not his followers. In order to know what we should do in such matters, we need to consult the Qur'an and Sunnah.

3- The Prophet's actions of establishing a religious ruling: These are Prophet's actions that are source of ruling for Muslims. If the Prophet advised us to do a certain thing, we put in effort carry out his advice. If he commanded or prohibited a certain thing, we must obey his command and avoid what he deemed forbidden, because his speech is in fact a revelation from Allah: **"Nor does he speak from [his own] desire. It is not but a revelation revealed."**¹⁵ And pointing to his mouth with his finger, Allah's Messenger (pbuh) said; *"I swear by the One in whose hands is my soul, nothing comes out from here except the truth."*¹⁶

Status of Sunnah in Respect to the Qur'an

1- Its Characteristic of Ta'yid (Reinforcement): Some of The Prophet's sayings correlate directly with the rulings in the Qur'an, thus they reinforce or perhaps emphasize these rulings, such as "the requirement to worship Allah alone" and "to abide by Allah's commands and orders" etc. The following verse is an example; **"O you who believe! Do not devour each other's wealth unfairly (through force or fraud). Rather, enter into (a legitimate) trade (and deal fairly) with mutual consent and agreement."** (al-Nisa, 4: 29) Hence, The Prophet stated the following: *"A Muslim's property (wealth) is not Halal (permissible) to another Muslim without his own sincere will."*

2- Its Characteristic of Tabyin (Clarification): Some rulings of Sunnah serve as an explanation (*tafsir*) of the verses in the Qur'an. For example, the Qur'an has ordered payment of Zakah, however it does not mention details such as out of what property, when, and how much is to be giv-

12. Hakim, Mustadrak, I, p. 171-172

13. Abu Dawud, Sunan, 4604; Darimi, Sunan, 606

14. Imam Shafii Al-Risala, Cairo: 1979 (2. edition) A. M. Shakir Edition, p. 89, article 295.

15. Al- Najm, 53: 3-4

16. Abu Dawud, 'Ilm, 3

en. The Prophet (pbuh) identified and made clear every detail about Zakah. Likewise, Jum'a (Friday) prayer is declared to be compulsory by a verse in the Qur'an, however it was the Prophet (pbuh) who described its conditions and conveyed the way in which it is to be performed.

The expression in regards to fasting “**separation of the black string from the white string**” is used to denote the discerning the darkness of night and white streak of dawn was clarified by our Prophet (pbuh). Likewise he explained “the amputation of the hand of a thief” as cutting off the right hand including the wrist.

Sunnah may also put a limit or restriction to an absolute (*mutlaq*) ruling of the Qur'an. The prohibition of marrying a woman together with her maternal or paternal aunt is an example for this type. There is a consensus regarding the prohibition of



such marriage although it is not mentioned in the Qur'an among those whose marriage is not permitted. Thus, since in this example the ruling given by Sunnah is clear, the general ruling of the Qur'an has been restricted.

3- Tashri' (Issuing Rulings Not Established by the Qur'an): Sunnah can also establish new rulings that do not exist in the Qur'an. This is because Sunnah is entitled to give rulings on its own just like the Qur'an. Some examples for such rulings are: “the prohibition of the meat of domestic donkeys, clawed birds and wild animals which hunt with their teeth,” “the prohibition of the marriage of a man to a woman together with her aunt,” “stoning an adulterer and adulteress,” and “allocating a certain share for grandmother in inheritance” etc.



We must take Prophet Muhammad (pbuh) as an example. Discuss in terms of Islamic Law whether or not we should follow every action of the Prophet.

D. IJMA'

Ijma' can be defined as **consensus of all Muslim jurists (Mujtahids) of a particular era in any time after the death of the Messenger of Allah upon the ruling of a given issue**. Ijma' is relevant at any time after the death of the Prophet (pbuh). However Muslim jurists have not been able to agree upon any consensus other than that of the Companions of the Prophet (pbuh).

The Maliki school of thought, compared to other *madhabs*, applies *ijma'* the most. During his lifetime, Imam Malik only accepted the *ijma'* of the scholars of Medina. The expressions related to consensus used in his book “Muwatta” further supports this point.

Reasons why Ijma' is accepted as a source

1- Almighty Allah states in The Qur'an: “**If anyone contends with the Messenger even after guidance has been plainly conveyed to him, and follows a path other than that becoming to men of Faith, We shall leave him in the path he has chosen, and land him in Hell,- what an evil refuge!**”¹⁷

According to this verse, when qualified Muslim Jurists agree on a matter, it is obligatory upon us to accept it and follow it.

2- The Prophet said that Muslims will not ever unite upon corruption and indecency, thus he ex-

17. Nisa, 4: 115

pressed; “*My ummah will not unite upon error (mis-guidance).*”¹⁸

It is stated in another *hadith*: “*What a Muslim regards beautiful is beautiful too in the sight of Allah.*”¹⁹

Types of Ijma’

1. Ijma’ Sarih (Explicit): This is the type of ijma that mujtahids express their opinions explicitly regarding a religious matter even though they may disagree at first but come to an agreement afterwards. The only condition is not to have any disagreeing opinions.

2. Ijma’ Sukuti (Tacit): This is the type of ijma’ based on silence. It does not imply a definite agreement of all of its participants. In this type of ijma’, some of the jurists of a particular age give an expressed opinion concerning a matter while the rest of the jurists remain silent. Whether or not this type of ijma’ can be considered a proof was argued. Imam Malik, Shafii, and some other jurists do not consider this type of ijma’ as a source (dalil). According to them, their silence does not necessarily mean agreement, but it may also imply respect or perhaps an attempt to avoid strife (fitna).

Examples of Ijma’ and its Basis

After the death of the Prophet (pbuh), the compilation and distribution of the Qur’an, the prohibition of the marriage between a Muslim woman and non-Muslim man, recitation of the call for prayer twice for Friday prayer are all examples of rulings that the rightly guided caliphs deduced with scrutiny by means of ijma’.

Allah has stated in the Qur’an: “**it is forbidden for you to marry your mothers or daughters**”²⁰ thus it is prohibited for a son to marry his mother and a father to marry his daughter. However, by means of ijma’, the words “mothers” and “daughters” in this verse were also interpreted as carrying the meanings “grandmothers” and “grand-daughters.”

Furthermore, the Companions deduced through ijma’ that grandmothers receive one sixth of inheritance. During the time of the caliph Abu Bakr (r.a.), an old woman whose grandson had died came to the caliph to ask whether or not she was entitled to her grandson’s inheritance. Abu Bakr (r.a.) replied; “I cannot find any answer for you in Allah’s book, and I do not recall anything from Allah’s Messenger regarding this matter. Now go, and I shall discuss this issue with my friends.” That day after noon prayer, he asked the Companions whether they have any knowledge of this matter. Mughira b. Shu’ba (r.a.) stood up and asserted: “The Messenger of Allah (pbuh) had given a grandmother one sixth of inheritance, I witnessed it.” When asked whether anybody else had any knowledge, Muhammad b. Maslama replied that he had also heard the Prophet had articulated similar words. Thus they agreed upon that one sixth of inheritance should be given to the grandmother, and nobody objected.²¹

After conquering Syria, Caliph Umar (r.a.) formed a panel of consensus regarding not to distribute the conquered lands among Muslim soldiers. Umar (r.a.) was not in support of the distribution of the land due to his prioritizing of the “common good” (Maslaha). The process of ijma’ took two whole days and after much debate, Umar (r.a.) was unable to convince his friends. However as soon as he recited the following verse, they were convinced thereupon: “**What Allah has bestowed on His Messenger (and taken away) from the people of the townships,- belongs to Allah,- to His Messenger and to kindred and orphans, the needy and the wayfarer; In order that it may not (merely) make a circuit between the wealthy among you. So take what the Messenger assigns to you, and deny yourselves that which he withholds from you. And fear Allah; for Allah is strict in Punishment.**” (al-Hashr, 5: 97).

The companions also agreed upon regarding the prohibition of lard (pig fat). The basis of this ijma’ was equating the prohibition of the meat of swine to its fat (lard).

18. Ibn Maja, Fitan, 8

19. Ahmad b. Hanbal, I, 379

20. Nisa, 4: 23

21. Abu Dawud, Faraiz, 5; Tirmidhi, Faraiz 10; Ibn Majah, Faraiz, 4; al-Mawsili, al-Ikhtiyar, V, 90.

The Significance and Benefits of Ijma'

A deduced ruling has the possibility of being either right or wrong. However, if all mujtahids are



in agreement regarding a certain ruling, the ruling may be deemed as unobjectionably accurate. Since this is sufficient to remove any doubt from the ruling, in fact it is a sign of the credibility of that ruling.

Some rulings in the Qur'an and Sunnah may not express certainty. Since they are open to interpretation, they gain certainty with the application of ijma'. Although the word "salat" is lexically defined as supplication, we know by means of ijma' that it refers to a certain act of worship prescribed and specified in the Qur'an. Likewise the term "siyam" means to hold or keep a secret; however we know by ijma', the word siyam mentioned in the Qur'an refers to the act of fasting.

E. QIYAS

The linguistic definition of qiyas is **to measure, equate, or compare and contrast**. However in legal terminology qiyas is defined as: **"To deduce or obtain the ruling of a case (for which a ruling is not clearly mentioned or expressed in the Qur'an or Sunnah) through analogical deduction to an existing ruling in the Qur'an or Sunnah carrying a common rationale with the case in question."**

Reasons why Qiyas is considered a source

Although the mujtahids of the Zahiri, Mu'tazili and Ja'fari schools do not consider qiyas to be a legislative source, the majority of Muslim scholars accepts qiyas as a source and has actually put it into practice due to the following supporting evidences:

1- Allah (s.w.t) says in the Qur'an: **"O you who believe! Obey Allah, and Obey the Messenger, and those charged with authority among you. If you differ in anything among yourselves, refer it to Allah and His Messenger, if you do believe in Allah and the Last Day; That is best, and most suitable for final determination."**²²

2- "When Muadh b. Jabal was appointed as the governor of Yemen, the following conversation took place between him and the Prophet (pbuh):²³

- *How will you judge when a case is brought to your attention?*

- I shall do so in accordance with the Qur'an..

- *And if you do not find the answer in the Qur'an?*

- I shall judge in accordance with Sunnah of the Messenger of Allah (pbuh).

- *And if you do not find it in Sunnah?*

- I shall use my independent judgment and I will not spare any effort.

The Messenger of Allah (pbuh) then patted him on the chest with his blessed hand and said: "Praise be to Allah Who has helped the messenger of His Messenger to be in agreement with that which pleases the Messenger of Allah."²⁴ Thus, it shows that qiyas is in fact a form of ijtihad which has been openly encouraged by the Prophet (pbuh).

22. Nisa, 4: 59

23. Tirmidhi, Ahkam, 3

24. Tirmizi, Ahkam, 3; It is also reported by bu dawud and Darimi.

3- While some of the Companions were giving their pledge to Abu Bakr (r.a.), they used the analogy between being the leader in ritual prayers (imam) and the leader of the Ummah (caliph). After having carried out qiyas, they came to the following conclusion: “The Prophet (pbuh) had appointed him (Abu Bakr) as the leader of our religious affair, so why shouldn’t we choose him as the leader of our worldly affairs?”

4- The Caliph Umar (r.a.), in a letter to the judge Abu Musa al-Ashari, stated that: “Know the similar (analogous) matters, then make qiyas between them.”²⁵ Ibrahim al-Nakhai, a well-known jurist (D.95/714) asserted that: “I memorize a hadith; then I assign a hundred similar cases (analogies) to it.”²⁶

Prerequisites and Examples of Qiyas

There are four essential elements of qiyas:

1. Original case (asl): It is the case whose ruling was given in the Qur’an or Sunnah. According to Imam Malik, the consensus of the people of Medina and the rulings of the Companions are also considered as part of Sunnah, so they can also provide the basis of qiyas.

2. The new case (far’): It is the new problem for which no ruling exists in any text.

3. Common rationale / Effective cause (‘illah): It is the common rationale between the two cases which causes the application of the rule of asl to far’.

4. Ruling (hukm): It is the rule of the original case (asl) which is to be extended to the new case (far’).

1- Prohibition of drugs and all other intoxicants through analogy to the prohibition of wine. Allah (s.w.t) prohibited drinking wine by the following verse in the Qur’an: “**O you who believe! Intoxicants and gambling, (dedication of) stones, and (divination by) arrows, are an abomination, - of Satan’s handwork: eschew such (abomination), that you may prosper.**”²⁷ Over time people have begun consuming intoxi-



cants such as beer, whisky, vodka etc. A mujtahid would assert that these drinks are also prohibited due to the fact that they also cause intoxication. Thus, the mujtahid has not declared a new ruling, but in fact has extended the ruling about wine to an identical case by the use of qiyas. In this case; asl is drinking wine, far’ is beer, vodka etc., ‘illah is the intoxicating property of such drinks, and the ruling is haram (prohibited).

2- Prohibition of dealing with other activities during Friday Prayer time through analogy to the prohibition of trade at the specified time on Fridays: “**Oh you who believe! When the adhan is called for the prayer on the day of Jum’uah (Friday), then proceed to the remembrance of Allah and leave trade. That is better for you, if only you knew.**”²⁸

This verse indicates that after the recitation of adhan for Friday prayer, all types of trade are prohibited. Mujtahids affirm that for those who are obliged to go to the Friday Prayer, carrying out other types of activities is also forbidden during that specific time.

3- A murderer is not permitted to receive a share from the will of his victim. The Prophet (pbuh) said, “*A murderer may not inherit.*”²⁹

25. Sarakhsi, Mabsut, vol. 16, p. 62-63

26. Hamdi Döndüren, Delilleriyle İslâm Hukuku, Istanbul 1983, p. 52

27. Al- Ma’idah, 5: 90

28. Jumu’ah, 62: 9

29. Abu Dawud, Diyah, 18

Mujtahids have agreed through analogy that when a person is written in the will of a testator and kills the testator with the intention to obtain the wealth promised in the will sooner, he shall not be entitled to any of his victim's inheritance, because he commits the murder to get the wealth sooner.

4- Accepting medical expenses being included in nafaqa (material support / sustenance). Allah has mentioned nafaqa in the Qur'an as food and clothing: **"...Upon the father is the mother's provision and their clothing according to what is acceptable. No person is charged with more than his capacity. No mother should be harmed through her child and no father through his child."**³⁰

Muslim jurists agree upon that medical treatment is a necessity of life just like food and clothing, thus by making qiyas they agree upon that medical expenses should also be a part of *nafaqa*.

5- Prohibition of speaking in a foreign language though analogy to the prohibition of two people whispering to each other while a third party is present. The Prophet expressed *"When there are three (persons), two should not converse secretly between themselves to the exclusion of the (third) one"*³¹

Thus, Muslim jurists have agreed upon that it is not permissible for two people to speak in a foreign language while a third person who does not understand that language is present.

Requirements of 'Illah

- A valid connection between the 'illah and ruling.
- It should not be specific to the original case but it can be applicable to another case.
- It must be clear. It should change depending upon the person, region or society in which it is applied
- There must be no evidence which proves that the 'illah is religiously invalid.

Rulings that are derived through qiyas are tied to the 'illah (cause) rather than to the hikmah (underlying wisdom). This is because the hikmah



may change with the change of people and circumstances. For example, in Chapter Nisa verse 101, it is stated that prayers may be shortened whilst travelling. What is the 'illah of this ruling? Generally, what first comes to mind is the "hardship" caused by travel. However, even though hardship is a clear attribute, it differs depending upon the region, individual and environment. Thus, here a true 'illah needs to be defined, and this 'illah is in fact the act of travelling itself. Every trip or journey has its own difficulty. Thus, we may conclude that it is permissible to shorten prayers during any trip, but not during (any) hardship.

The Maliki School has always observed Maslaha (the common good) in the application of qiyas.

30. Al- Baqara, 233 :2.

31. Buhari, isti'zan, 45; Muslim, Salam, 36

F. SECONDARY SOURCES

Views of the Companions of the Messenger of Allah (SAHABA)

What it mean by the views of companions is that the religious rulings (fatwa) or opinions of a Companion of the Prophet. The Companions are the ones who were best in knowledge about the reasons of revelation (of the verses of the Qur'an) and the way in which they were revealed. Hence, they were the most aware ones of the purpose of Islamic rulings. Allah praises the Companions in the Qur'an as follows: ***“And the first forerunners [in the faith] among the Muhajireen and the Ansar and those who followed them with good conduct – Allah is pleased with them and they are pleased with Him.”***³² In this regard the Prophet (pbuh) stated that: *“The best of my ummah are those who were present in my time, then those that follow, then those that follow them,”*³³ thus he pointed out the greatness of his Companions.

Most of the Companions avoided issuing their personal opinions. There are approximately 130 companions whose rulings have reached us. Seven of them have enough fatwas to be compiled into books. These seven companions or *“Fukaha al-sab'a”* are: Umar ibn al Khattab, 'Aisha, Zayd b. Thabit, Abdullah b. Mas'ud, Abdullah b. Abbas and Abdullah b. Umar (may Allah be pleased with all of them).

The Hanafi, Maliki, Shafi'i and Hanbali scholars said that “the views of the companions regarding ‘ta'abbudi’ (non-rational) issues have to be followed, when there is no particular ruling in the Qur'an, Sunnah or Ijma' (Consensus) about the issue in question.”³⁴

Imam Abu Hanifa said that: “I take and accept what is in the book of Allah's. If I do not find the ruling in the Qur'an, I turn to Sunnah. If I do not find it there either, I approach any one from the Sahaba and seek his opinion. However, when it comes

to the following generation (tabi'un) such as Ibrahim an-Nahai, Sha'bi, Hasan al-Basri and Ata, I apply my personal ijtihad like them.

Imam Shafi'i stated the following in his book “Risala”: “If a ruling cannot be found in the Qur'an or Sunnah, views of the Sahaba are to be consulted.”³⁵

Imam Ahmad b. Hanbal agreed with him in this regard.

Imam Malik's book “Muwatta” is filled with rulings based on fatwas issued by various companions of the Prophet. Imam Malik highlighted the importance of the opinions of Sahaba alongside the sayings of the Prophet (pbuh). He considered their views as part of Sunnah. Contrary to the views of Abu Hanifa and al-Shafi'i, Imam Malik also attached importance to the opinions of reputable tabi'in.

The Mu'tazila and Shi'a sects do not consider every Sahabi's opinion as a source because they argue that not all Companions were qualified enough to be considered a faqih (Islamic jurist). They assert that the Companions may err, thus their views are merely their personal thoughts and opinions, and cannot be considered a source for extracting rulings.

Examples for the views of Sahaba:

❖ When Abu Bakr (r.a.) was asked about the meaning of the word “Kalala” which was mentioned in the verse regarding inheritance, he replied: *“I will tell my personal opinion about this word, if I am right, it is from Allah, and if I err, it is from myself and devil. As for Kalala, it means the inheritor other than the father and child.”*

❖ Umar (r.a.) ceased the payment of zakah to the group of people called *“Muallafat al-qulub”* which is one of the groups mentioned in the Qur'an that can receive a portion from zakat revenues. Regarding this, Caliph Umar (r.a.) expressed the following: *“The Messenger of Allah used to give this money in order to draw their hearts closer to Islam. However, Allah has made Islam and the Muslim*

32. Tawba, 9: 100

33. Muslim, Fadail al-Sahaba, 213, 215; Abu Dawud, Sunnah, 9

34. Mir'at al-Usul, vol. 2, p. 250; Gazali, al-Mustasfa, vol. 1, p. 135

35. Shafii, al-Risala, 597-598



state exalted and today there is no need for such an investment. Fortunate are those who accept Islam and remain sincere in their faith, as for those who do not (remain sincere), they shall prepare for their own destruction.”

❖ The assertion that the maximum duration of pregnancy cannot exceed two years. This is based on report about ‘Aisha’s view. Such a report proves that the Sahabi heard the ruling of that issue from the Prophet (pbuh), because religious issues related to measures and numbers cannot be known by human intellect, therefore this shows that the companion had heard it from the Prophet himself.

Sadd dharai‘ (Blocking the means to evil)

Sadd dharai‘ is defined as **the blocking or hindering the paths (means) which may lead to something prohibited.**

There are several examples of Sadd dharai‘ in the Qur’an and Sunnah:

❖ In the Qur’an, it is commanded not to insult the idols of the pagans. Insulting their deities will give them the excuse to insult and curse Allah. Allah says in the following verse: **“And do not in-**

sult those that they invoke other than Allah, lest they insult Allah in enmity without knowledge.”³⁶

❖ The Prophet did not permit giving gifts while paying the debts back as it may lead to charge interest (riba) or it may be confused with interest. He also prohibited giving gifts to a judge or ruler, as it may encourage him to be unfair and biased in his job.

❖ The jurists of the Sahaba agreed upon that a woman who is divorced by her fatally ill husband should be included into the heirs. Because there is a possibility that her husband divorced her in order to exclude her from his inheritance. In order to prevent the usage of divorce to cause an injustice to the wife, companions issued the above mentioned fatwa.

❖ The prohibition of a man and woman [who have no religious obstacles to get married] being alone in a place without the presence of a third person as this may lead to zina (adultery).

❖ The prohibition of proposing marriage to somebody else’s fiancé or interfering while two people are making a trade agreement or bargaining as this provokes conflict and enmity between people.

❖ The Prophet did not order to execute the hypocrites (munafiqun) who had been causing great mischief among Muslims at such critical times as war. He had not done so, because if he had,



36. Al- An’am, 6: 108

it would have given the enemies of Islam a chance to say “Muhammad is killing his own men.”

❖ During the time of war, it is not appropriate to punish the thieves for it might lead them to unite with the enemy and fight against believers.

❖ The Jumu’ah (Friday) prayer is obligatory. Because of that, it is also obligatory to leave all trade and work, and go for prayer at the specified time.

❖ Allah’s Messenger (pbuh) forbade the building masjids on to the grave yards as it may give the impression of worshipping human.

❖ Rulings derived through ijtihad may change according to the circumstances of the present era. Carrying a weapon was considered Sunnah in the past, however today in order to prevent misuse, it can only be carried under specified conditions with a license.

❖ It is not allowed to sell grapes to someone known to produce wine. Drinking even a drop of alcohol is not allowed as it may lead to drinking more. It is useful to remember the Prophet Muhammad’s hadith: “If a large amount of anything causes intoxication, a small amount of it is prohibited.”³⁷

❖ In terms of sadd dharai’, the production of substances used in certain drugs may be placed under control.

Al Masalih al Mursala (Public Benefit)

Al-Maslaha al-Mursala refers to issuing a rule in accordance with the public good in the absence of ruling regarding a matter in the Qur’an, Sunnah, Ijma’ or Qiyas. Many things have been forbidden in society for the sake of public good. Such are the things which give more harm than good and examples of such things are alcohol and gambling.³⁸

The principle of taking what is good for the people and avoiding what is mostly harmful is a concept known as *al-Maslaha al-Mursala*, which was one of the concepts frequently applied by Imam Malik.

Types of Masalih according to their acceptance by the Sharia:

1. Mu’tabar, 2. Mulgha, 3. Al-Maslaha al-Mursala

TYPES OF MASALIH ACCORDING TO THEIR ACCEPTANCE BY THE SHARI’AH

MASALIH MU’TABARA

MASALIH MULGHA

MASALIH MURSALA

1. Maslaha Mu’tabara (Accredited Public Good): This is the type of maslaha which is approved by the Shari’ah. This type of maslaha aims to protect five fundamental principles: a) Protection of faith, b) Protection of life, c) Protection of intellect, d) Protection of lineage e) Protection of property.

* Belief in Allah is commanded in order to maintain the existence of religion and acts of worship such as ritual prayer and fasting have been decreed. On the other hand for the protection of Islam, fighting against those who attack Islam and harass Muslims has been called upon.

* The human life has been protected with punishments, such as qisas and diyyah, for the crimes committed against human life. In respect to the health of human beings, certain facilities in acts of worship are provided for those who are physically unwell.

* For the protection of human intellect, intoxicants such as alcohol and narcotics have been prohibited, and certain types of punishments have been established for those who use such harmful substances.

* For the protection of human lineage, Islam has decreed marriage lawful and extra-marital relationships unlawful. Adultery and fornication are forbidden and punishments are decreed for those who do not obey these rules.

37. Abu Dawud, Ashriba, 5.

38. Al-Baqara, 2: 219.

* The protection of property has been ensured by the command and encouragement of mankind to work and by forbidding stealing other peoples' property. Again for those who steal others' belongings shall be punished according to Islamic law. Cheating, charging interest, and unfair gain are all other prohibited ways of earning.

2. Maslaha Mulgha (Abolished Public Good):

This is the type of maslaha abolished by Islam. For example, building casinos or pubs to support the economy of the country. In the process of ijtiḥād, no attention is paid to this type of maslaha.

3. Maslaha Mursala (Unrestricted): There is no ruling or evidence regarding the approval or rejection of this this type Maslaha. Maslaha mursala has certain characteristics such as "providing benefit for the public or prevention harm from it." There are many examples from the time of the Sahaba and tabi'un showing that maslaha mursala was frequently used in matters about which no other evidence existed to derive a ruling.

❖ The compilation of the Qur'an, Abu Bakr's nomination of Umar as his successor, Uthman's getting rid of the varied Qur'anic texts other than the original copy, and his command for the recitation of a second adhan for Friday Prayer, Umar's command to governor Huzayfa to divorce his Christian wife were all examples for the rulings based on ensuring Maslaha.

❖ According to Hanafis, after victory in a war, if Muslims are not able to take the booty with them, they may destroy what is left behind, slaughter their animals and burn the whole, lest the enemy reacquires and gains benefit from it.³⁹

❖ Likewise, Imam Shafi'i asserted that, in the case of the enemy's defeat, if it is absolutely necessary to defeat the enemy, it is allowed for Muslim army to cut the trees, kill their horses and destroy their weaponry.

❖ Imam Ahmad b. Hanbal articulated that anybody who causes mischief and unrest may be exiled to protect the public from his evil. Furthermore, even if they are more than one person, those

who unjustly murder a person shall all be punished by qisas or death.

❖ The prohibition of things which are generally harmful to the human body such as the ban on smoking in closed and covered areas, littering the environment, and spitting on the ground are all bans tied to the principle of Maslaha.

Rules may change based on the changes in the accepted Maslaha over time. The issue of smoking can be shown as an example. In the past, people were unaware of the dangers and health risks associated with smoking. In fact smoking was even considered harmless and therefore permissible. But, with the increased scientific research and development, we now know about the dangers of smoking. Thus, the money spent on smoking is waste as it has no benefit. It is also clear that harming one's own health and that of others contradicts with basic principles of Islam.

In Majalla, i.e. Ottoman legal code, we may find articles based on maslaha:

- A private injury is tolerated in order to ward off a public injury (26th article). In other words, sometimes harms may be inflicted upon individuals to protect the general public.

- From two evils, the lesser evil may be preferred. (29th article)

- Whether a need be general or specific, it is a necessity. (32nd article) in other words peoples' general or private needs should be dealt with as a necessity.

'URF (Custom)

'Urf is a legal term which refers to the commonly adopted actions and sayings of a given society directed by the common sense. Traditional



39. Abu Yusuf, al-Radd ala Siyar al-Awzai, Cairo, 1357/1938, p. 83

values and customs accepted by the Muslim community as good are considered one of the secondary sources of Islamic law. The Prophet (pbuh) said: *“Things which are regarded by Muslims as good are also regarded good in the presence of Allah.”*⁴⁰

Some of the legal maxims found in Majallah show the significance ‘urf and state that it is one of the sources of Islamic law:

“Custom is an arbitrator” (article 36) which means customs may be invoked to justify a judgment.

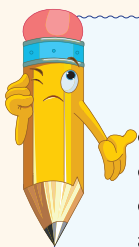
“A matter recognized by custom is regarded as though it were a contractual obligation” (43) in other words things that are known by customs is accepted as part of contracts even when they are not written in the contracts.

“A matter recognized by merchants is regarded as being a contractual obligation between them” (44)

“A matter established by custom is like a matter established by law.” (45) In other words matters established by customs are just like the ones established by verses and ahadith.

According to Imam Malik’s madhhab, the lifestyle and practices of the people of Medina have a significant place [after the Qur’an and Sunnah]. The reason for this is that he considers the lifestyle and the practices of the people of Medina as the living application of Prophet’s Sunnah. And this is why Imam Malik used the customs of Medinan people as the basis of his judgments. As he highlighted the significance of custom, he also paid attention to the principle of *muraat-i khilaf* (in order to avoid following a wrong view, it is recommended following the views agreed upon by everyone.

40. Ahmad b. Hanbal, Musnad, vol. I, p. 379.



EVALUATE

According to Imam Malik’s madhhab, the lifestyle and practices of the people of Medina have a significant place [after the Qur’an and Sunnah]. The reason for this is that he considers the lifestyle and the practices of the people of Medina as the living application of Prophet’s Sunnah. And this is why Imam Malik used the customs of Medinan people as the basis of his judgments. As he highlighted the significance of custom, he also paid attention to the principle of *muraat-i khilaf* (in order to avoid following a wrong view, it is recommended following the views agreed upon by everyone.

Evaluate and discuss these views of Imam Malik in terms of Islamic Law.

Some matters are left for the application of ‘urf in Islam. For example;

❖ Which expenses of rental house are upon the tenant and which one of them are upon the owner are determined by the customs, if the contract is not clear in those respects. Likewise, the organization of wedding expenses of both families is based on the ‘urf (customs) of the couple.

❖ The amount of money paid to a nursing mother is based on ‘urf. Allah says in the Qur’an: **“And if you wish to have your children nursed by a substitute, give payment according to what is acceptable.”**⁴¹

❖ If the guardian of an orphan is poor, he may take some of the orphan’s wealth according to what is acceptable by ‘urf: **“And whoever [when acting as a guardian], is self-sufficient should refrain [from taking a fee]; and whoever is poor- let him take according to what is acceptable.”**⁴²

❖ Covering the expenses of the wife and children is the job of the husband. Allah says in the Qur’an: **“Upon the father is the mother’s provision and their clothing according to what is acceptable. No person is charged with more than his capacity.”**⁴³

TYPES OF ‘URF

‘Urf Sahih (Islamically Valid)

‘Urf Fasid (Islamically Invalid)

41. Al-Baqara, 2: 233

42. Al-Nisa, 4: 6

43. Al-Baqara, 2: 233

‘Urf is divided into two categories:

1. **‘Urf Sahih:** Customs that do not contradict with the principles of the Qur’an and Sunnah.

2. **‘Urf Fasid:** Customs which have been deemed invalid because it contradicts a verse in the Qur’an or a hadith. The following can be given as examples: Charging of interest, drinking alcohol, men and women’s being in gatherings such as wedding ceremonies in religiously inappropriate manners. Invalid customs may never be classified lawful, no matter how widespread they become.

Rulings based on ‘urf may change over time. An article of the Ottoman legal code Majalla states that “It is an accepted fact that the terms of law change with the change in the circumstances of time and place.” (Article 39)

In the earlier times of Islamic history, it was considered inappropriate to earn money for teaching Qur’an, however today it is considered acceptable as the circumstances have changed.

BOX OF WISDOM

For any ‘urf or tradition to be acceptable, it must be in congruence with the principles of Qur’an and Sunnah. This needs to be taken into account in every stage of change, as there may be certain practices in a society which may arise over time. For example; drinking alcohol may become widespread in a particular place, however this does not make it lawful as it contradicts to the prohibitions in the Qur’an and Sunnah, thus no Mujtahid may express that drinking alcohol is permissible because of its widespread existence in the customs of that place.

It is a general rule in Islamic law that when a person is entrusted with the goods of others, he is not held responsible in the case of damage to the item, unless it is purposefully done or caused by negligence. However over time, because people have become less trustworthy, this rule has changed and it is accepted that people who are entrusted with an item should be held responsible in the case of loss or damage to the item, and they must compensate the damage.

V. Istihsan

Istihsan literally means “to approve, or to deem something preferable.” In its juristic sense, *istihsan* is a method of exercising personal opinion in order to avoid any rigidity and unfairness that might result from the enforcement of the existing law. “Juristic preference” is a fitting description of *istihsan*, as it involves setting aside as established analogy in

favour of an alternative ruling which serves the ideals of justice and public interest in a better way.⁴⁴

The following example should be taken note of to better understanding the concept of *istihsan*: The slaves of a person named Khatib stole and ate the meat of the camel that belonged to a person from the Muzaina tribe. When Khatib complained of this to Umar (r.a.), he ordered the hands of the slaves to be cut off because of their thievery, because this was the regular ruling for such cases. However, Umar had learnt the details of the matter after he listened to the slaves. He learned that the slaves had left hungry despite being made to work. So he lifted the hand cutting punishment, and he ordered the owner of the slaves, Khatib, to pay the owner of the camel twice the value of the camel which was 800 dirham silver money.

44. Kamali, Muhammad Hashim, Principles of Islamic Jurisprudence, The Islamic Texts Society, 1991, p. 218.

Hanafis have used the evidence of *istihsan* the most.⁴⁵

Types of Istihsan and their examples:

1. Istihsan based on a nass and ijma: The *salam* contract (purchase-order agreement) means the deferred selling of a commodity in exchange for advance cash, which means selling a commodity that is not yet in hand. Two texts can be found on this matter. One of them is of a general nature and requires the invalidity of such agreement. The Prophet said to Hakim b. Hizam; “Do not sell something you do not possess.”⁴⁶ The second text is more specific, which expresses that the *salam* contract is possible and lawful. When the Prophet came to Medina he saw that Medinans were making a one or two year *salam* contract on the matter of their fruit (ready cash, the fruits to be given later). For this he stated: “For the people carrying out a sale by way of the *salam* contract, they should do this according to a certain measuring, a certain scale and they should carry it out by determining the length of time of the process.”⁴⁷

❖ The ruling that the fast of a person who forgets and unknowingly eats and drinks is not nullified is established by using the principle of *istihsan*. According to the general rule, the fast should normally be nullified under such circumstances. However the Prophet (pbuh) stated that “the fasting people who forgets and unknowingly eats and drinks should complete their fast, because Allah made him eat and drink.”⁴⁸ Abu Hanifa said on this matter; “If it had not been for this hadith, I would have acted according to the *qiyas* and ruled that the fast of a person who forgets and unknowingly eats and drinks would be nullified.”⁴⁹

❖ The prayer and ablution of a person who loudly laughs while praying in congregation will not be accepted (the prayer will not be accepted, his/her ablution will be nullified). Actually the regular analogy requires that only the prayer would be

unacceptable, however this *qiyas* was not applied based on the hadith informing us that the ablution of the people who laughed at a blind person falling into a ditch during their prayer were nullified. The regular analogy was not applied and the ruling was issued according to the principle of *istihsan*.⁵⁰

2. Istihsan based on the Necessity and Needs:

It is to exempt certain matters from the general religious ruling due to *darurah* or necessity. Being allowed to perform the religious ablution with the leftover water of the hawk, vulture and the sparrow hawk is based on the ruling of the *istihsan*. According to the analogy, just like the ruling about lions, tigers and other predatory animals, it must be ruled that the leftover water of the predatory birds should be considered religiously dirty, while according to the *istihsan*, as a precaution, this water is just considered to be *makruh*.

❖ According to the general rule, the water will not be considered clean unless the impurities are removed out of it. If a well becomes dirty, it will not become clean unless its entire water is emptied out. However according to the *istihsan*, due to necessity, the well will be considered clean when certain buckets of the water are emptied out of it.

3. Istihsan due to Maslahah and Urf: According to the general rule, the agreement of a contract will come to an end with the death of one of the parties of the contract. Under some circumstances, this general rule is not applied due to the *maslahah*. For example, in such a situation that the land owner dies and the crop has not yet grown, normal analogy is not followed and it is ruled that the agreement will continue according to the *istihsan*. The basis of *istihsan* in this case is to protect the benefit of the person who has provided the labor and also to prevent him from the possible losses.

❖ The ruling that it is not lawful to give zakat to the sons of Hashim is a ruling adopted by the Hanafi, Maliki madhhabs and by many other Muslim jurists. Because the Prophet of Allah has stated: “Zakat is not allowed for Muhammad and the family of Muhammad”⁵¹ and “One fifth of one fifth has been given as a right to them (the sons of Hashim)

45. Amidi, el-Ihkam, vol. III, p. 138

46. Abu Dawud, Buyu': 70.

47. Abu Dawud, Buyu', 57; Nasai, Buyu', 63

48. Bukhari, Aiman: 15, Sawm: 26; Tirmidhi, Savm: 26; Muslim, Siyam: 171.

49. Zakiyuddin Shaban, ibid. p. 165.

50. Zailai, ibid., I, 47.

51. Muslim, Zakat: 168



so that this may suffice for them and so they will not have to depend on other people.”⁵²

However, Abu Hanifa and Malik ruled that it would be lawful to give zakat to the sons of Hashim in their time, because the portion that used to be allocated for them from the war booties could not be allocated anymore. When the custom changed so did the ruling.

❖ The pious foundations should be perpetual (should continue up till the Judgment Day). Like immovable real estate properties such as houses, lands can be the subject of a pious foundation, whereas movable goods cannot. However Muhammad al-Shaibani permitted that making foundations on the basis of movable items such as books when it becomes a custom among people, even though it contradicts with the analogy. He based his view upon *istihsan*.

VI. Istishab

Istishab means the presumption of continuity of a ruling that was established in the past as long as there is no evidence suggesting that it has changed. *Istishab* mostly aims to protect the acquired rights of those who are lost after disasters such as war, earthquakes and fires. Such people's existing rights will continue to be protected until the news of their death arrives or until the court rules for their death. For example, for the person who has not been heard from for a long period of time, their rights over their property will be protected for a certain period of time and their property will not be distributed amongst their heirs.

Some principles related to *istishab* are as follows:

1- Permissibility is the original state of things: Allah has created everything that exists on this earth for humans and has presented everything to them so that they may benefit from them.⁵³

When a question arises as to the legality of a particular kind of beverage or food, and there is no other evidence to determine its value, it should be presumed that it is permissible, because it is a blessing.

❖ It is lawful to benefit from things about which there is no evidence to suggest that they are prohibited such as beneficial foods and drink, animals, plants or other lifeless substances that can be benefited from. For example, a person who sees forest fruits when passing by a forest may gather and consume these fruits, provided that he does not give harm to the trees. Because the land of the forest is not anyone's private property.

2- Presumption of original freedom from liability: When a person is born, they are born sinless, innocent and without any debt. The defendant is considered innocent up until he/she is proven guilty.

❖ A person cannot be treated like a criminal when their suspected crime has not been proven. For example, a person who claims that another person is responsible for a crime must prove and document this claim.

3- Certainty may not be disproved by doubt: If the existence of something is definitely known then it is ruled that its existence still continues at the moment and it cannot be ruled as non-existent simply due to a suspicion. For example, people in debt will be considered to be in debt until they bring evidence proving they paid their debt.

❖ The person who is not for sure about performing ablution is required to perform one as a precaution. But when the person definitely remembers performing ablution but has suspicion as to whether or not he/she has nullified it, his/her ablution is considered valid.

❖ If someone gets lost and there is no evidence for his/her death, this *mafkud* (missing person) is considered to have the same rights as he did before he got lost, as in his property cannot be dis-

52. Nasai, Fey', 15, Zailai, Nasb al-Rayah, vol. II, p. 404.

53. See, Ibrahim, 14: 32-34

tributed amongst his heirs and also his wife cannot be considered as a widow.

VII. Shar'u man Qablana (The Laws of Previous Religions)

Shar'u man qablana means the religious laws brought by the prophets before the Last Prophet Muhammad (pbuh).

Are the rulings of past Shariahs valid and binding for the ummah of Muhammad (pbuh)?

a) The rulings of the Bible, Torah and the Book of Psalms which are mentioned in the Qur'an or Sunnah of the Prophet. There is a consensus among Muslim scholars that such rules are not binding for Muslims.

b) Rulings that are mentioned in the Qur'an or in the Prophet's sayings. It is possible to classify this type of rulings into three categories:

aa) rulings about which there are evidences that they were abrogated (naskh) about Muslims. There is a consensus that these rulings are not binding for Muslims. For example, for Jewish people who went into extremes and acted cruelly, all clawed animals and the inner fats of cattle and sheep was forbidden.⁵⁴

Another example is that war booty was not being lawful for past ummahs but it is considered permissible to Muslims.⁵⁵

bb) Rulings that have evidence that they are also applicable for Muslims. They are considered binding for Muslims. For example as fasting was compulsory for the past religions, it is also compulsory in Islam;⁵⁶ sacrificing animals was a ruling commanded only to Abraham, but it was made legal for the Muslims, too.⁵⁷

cc) Rulings that are mentioned in the Qur'an and ahadith in which there is no sign as to whether or not it has been accepted or rejected. And also rulings that have no evidence proving that they have been abrogated for Muslims.

❖ We can give this ayah as an example: **"We decreed for them (in the Torah) a life for a life, an eye for an eye, a nose for a nose, an ear for an ear, a tooth for a tooth, and a wound for a wound. But if a man charitably forbears from retaliation, his remission shall atone for him. And whoever does not judge by what Allah has revealed-then it is those who are the wrongdoers."**⁵⁸

According to most Muslim jurists, verses such as these are also valid for us. The Prophet (pbuh) stated that "There is a life for a life in retaliation (qisas)"⁵⁹ so he made clear that the ruling of qisas also encompasses Muslims.



54. Al-An'am, 6: 145-146.

55. Bukhari, Tayammum, 1

56. Al-Baqara, 2: 183

57. Ibn Majah, Adahi, 3

58. Al-Maidah, 5: 45

59. Bukhari, Diyat, 6



EVALUATION ACTIVITIES

1. What do you understand from the term dalil? Explain.
2. What is Sunnah? Explain the different types of Sunnah according to the rulings they bring. And also explain the significance of Sunnah in Islam.
3. Shortly explain the types of ijma and their characteristics.
4. Explain qiyas and give examples of this.
5. What do the views of the Sahabah mean? Explain.
6. What conditions are required for a custom to be a source for a religious ruling? Write.
7. Explain the types of istihsan by giving examples.
8. Explain the principles of istishab and give examples.
9. Are the religious laws of previous religions binding for Muslims? Explain.



MATCH THE PAIRS

1	Dalil qat'i		<i>The dalil that does not create certainty in the ruling that has been given</i>
2	Dalil Asli		<i>Other sources that have been taken out by examining the primary sources</i>
3	Dalil		<i>A dalil that allows to reach a definite, clear ruling</i>
4	Adillah arba'a		<i>Main sources (The Qur'an and Sunnah)</i>
5	Dalil zanni		<i>Sources that all mujtahids agree upon</i>
6	Dalil Far'i		<i>Guideline, something that is useful in proving a claim</i>

TRUE-FALSE QUESTIONS

1. () The Qur'an explains all legal situations with great detail.
2. () "Zakat" is considered obligatory in the Qur'an, however from which commodities the zakat should be given, the length of time and the amount of commodity to be given in regards to the zakat has not been made clear in the Qur'an.
3. () It is debated whether silent consensus is a credible dalil or not. Imam Malik, Shafi and some other Muslim jurists do not accept this type of ijma to be a source of law (dalil).

FILL IN THE SPACE QUESTIONS

(Views of the sahaba, istishab, maslahah, urf, sadd al-dharai)

1. is something that settles in individuals with the guidance of the mind, they are words and actions that are accepted by people with good common sense.
2. The personal views and legal opinions that were related from one of the companions of Messenger of Allah is called.....
3. The prohibition of the things that can lead to forbidden actions is called
4. Presumption of the continuity of a ruling that was established in the past is called.....
5. To take something beneficial for the public is called



**UPON WHICH SOURCE OF ISLAMIC LAW THE RULINGS BELOW
ARE BASED? WRITE IN THE SECTION ON THE SIDE.**

A well that is impure will be considered clean when a certain amount of water is emptied out of it.	Istihsan
Because whisky is similar to wine it has been ruled to be prohibited.	Qiyas
The expenses of a rentable house will be shared amongst the home owner and renter in accordance with the general acceptance of that community.	
A person who does not remember whether they have nullified their ablution is considered to have not nullified it.	Istishab
Smoking indoors should be banned because it gives harm to the majority of people.	
The people of Messenger of Allah have made it clear that consuming donkey meat is prohibited.	
A person cannot be treated like a criminal until they are proven guilty.	
Even though it contradicts with the general analogy, movable items such as books can be the basis of a pious foundation (waqf).	
So that it does not open way to fornication, being alone with a foreign woman has been deemed haram.	
When a person deliberately kills another person, qisas is applied to him as it was in past communities.	
When someone gets lost, his/her rights are protected up until an evidence for his/her death is found or until the court rules for his/her death.	
Companions of the Prophet (pbuh) unanimously agreed upon that pig fat was also haram, even though this is not stated in the Qur'an.	

**MULTIPLE CHOICE QUESTIONS**

1. Which principle was considered when the following ruling was issued; Everything is considered to be permissible, due to it being a blessing, up until evidence is found proving that it is haram?
A) Istihsan B) Istishab
C) Urf D) Sad al-Zarai
2. Given as an example for the principle of **Istihsan**, what is the name of the fixed-term sale of a commodity in exchange for upfront money?
A) Salam agreement
B) Deposit
C) Interest
D) lost property found
3. “With the change of time, place and conditions, it is inevitable that the fatwas based on them also change” Which one of the following choice is most related to this principle?
A) Ijma B) Sunnah
C) Urf D) Qiyas
4. Which mujtahid gives special value to using the customs of the people of Medina as a source of law?
A) Imam Abu Hanifa
B) Imam Malik
C) Imam Shafi
D) Imam Ibn Hanbal
5. For the sake of the public good, the principle “From two evils, the lesser evil may be preferred” (article 29) has been established. What does this statement mean?
A) In order to remove general harm, specific harm is preferred.
B) Needs can be perceived as a necessary situation.
C) The option that is less wrong should be chosen out of two wrongs.
D) Rulings are set according to customs.
6. It is not considered acceptable in Islam for the government to establish a gambling system in order to improve the country. Because in this case, there is a **maslahah** that contradicts with the religious ruling. What is this **maslahah** called?
A) Maslahah mursala
B) Maslahah tahsin
C) Maslahah mu’tabara
D) Maslahah Mulgha

CHAPTER 3

MUSLIM FAMILY LAW

CONTENTS

- A. THE FUNDAMENTAL CHARACTERISTICS NEEDED TO BE FOUND IN THE FAMILY
- B. THE BENEFITS OF MARRIAGE
- C. MATTERS NEEDED TO BE PAID ATTENTION BEFORE MARRIAGE
- D. THE IMPEDIMENTS OF MARRIAGE
- E. NONBINDING MARRIAGES AND THE AUTHORITY OF THE GUARDIANS
- F. INVALID MARRIAGES IN ISLAM
- G. FACTORS THAT SHOULD BE KNOWN ABOUT A MARRIAGE CONTRACT AND WEDDING CEREMONY
- H. MAHR (DOWRY)
- I. NAFQA (ENSURING THE MAINTENANCE OF THE FAMILY MEMBERS)
- J. THE WOMANS OBEDIENCE TO HER HUSBAND AND ITS LIMITS
- K. THE TERMINATION OF MARRIAGE (DIVORCE)
- L. TYPES OF DIVORCE
- M. IDDAH AND ITS CONDITIONS
- N. UNDERTAKING THE RESPONSIBILITY OF UPBRINGING THE CHILDREN (HIDANAH)



PREPARATORY WORKS

1. Can the members of a society achieve peace and happiness without the existence of the institution of family? Talk about it.
2. What kind of problems could there possibly be in a society in which fornication has become common? Research.
3. Make a research about the verses and sayings of the Prophet (pbuh) on marriage.
4. Learn from your elders husband and wife's rights and responsibilities resulted from marriage?
5. Find the meaning of the terms nikah, nafaqa, mahr, talaq, muhalaa, and tafrik. .

A. THE FUNDAMENTAL CHARACTERISTICS NEEDED TO BE FOUND IN THE FAMILY



Man and woman are created in a state with a desire towards each other and family is the institution that brings man and woman together within legitimate limits. It is an institution which brings peace to their heart and tranquility to their body. Allah the Almighty points out that the peace and happiness arising from love and trust in the family is evidence of His greatness: **“And one of His signs is that He created mates for you from yourselves that you may find rest in them, and He put between you love and compassion; most surely there are signs in this for a people who reflect.”**¹

1. Al-Rum, 30: 21

New generations will learn these values in the family environment. Therefore, societies must have stable family structures in order to ensure the development and proliferation of certain qualities such as love, respect, helpfulness, and interdependency.

Islam has required some principles from the families that Muslims are going to start. Within the framework of these principles, the main characteristics required to be found in a Muslim family are as follows:

1. According to Islam, the family first and foremost depends on a legitimate marriage contract.

Islam encourages marriage, which is stated in the Holy Qur'an as follows: **“And marry those among you who are single and those who are fit among your male slaves and your female slaves; if they are needy, Allah will make them free from want out of His grace; and Allah is Ample-giving, Knowing.”**²

Allah's Messenger (pbuh) stated that while addressing the young: *“Marriage (nikah) is part of my sunnah, and whoever does not follow my sunnah has nothing to do with me. Get married, for I will boast of your great numbers before the nations. Whoever has the means, let him get married, and whoever does not, then he should fast for it will diminish his desire”*³

It has also been stated in another hadith: *“In all of your marriages there is the reward of charity.”*⁴

2. Al-nur, 24: 32; for other verses related to marriage see Al-Baqarah, 2: 102, 221, 228, 230, 232, 235; al-Nisa, 4: 4, 5, 19, 22-26; al-A'raf, 7: 189, 190; al-Nur, 24: 3, 32, 33; al-Rum, 30: 21; al-Ahzab, 33: 37; al-Mumtahina, 60: 10-12
3. Ibn Majah, Nikah, 1; Bukhari Nikah, 2, 3
4. Muslim, Zakat 52; Abu Dawud, Tatawwu, 12, Adab, 160; Ahmad ibn Hanbal, vol. V, 167, 168



Three people from the Companions asked the wife of the Holy Prophet –peace be upon him – about his nightly prayers. After obtaining information of this, they regarded their own prayers not sufficient. Upon this the first of the Companions decided to “continuously perform the nightly prayers,” the second “to continuously fast,” and the third decided “to remain distant from women and to never marry.” Upon being informed of these discussions the Prophet of Allah stated: *“What has happened to these people that they say so and so, whereas I observe prayer and sleep too; I observe fast and suspend observing them; I also marry women? And he who turns away from my Sunnah has no relation with Me.”*⁵

Islam, the religion that forbids fornication, has given permission for a man to marry up to four women provided that he treats them justly. But Islam encourages monogamous marriage: **“And if you fear that you cannot act equitably towards orphans, then marry such women as seem good to you, two and three and four; but if you fear that you will not do justice (between them), then (marry) only one or what your right hands possess; this is more proper, that you may not deviate from the right course.”**⁶

In Islam, the permission for a man to be able to marry up to four women is seen as a necessity. It needs to be based on the following legitimate reasons:

➤ The significant decline of the male population after war,

➤ The man having to stay far away from his spouse for a long time due to work obligations and also the struggle he deals with in keeping his inner self under control when he is in another country,

➤ Women who are aware of men’s weaknesses wanting to become close to men of wealth and power.

➤ The special circumstances of women, infertility and other similar reasons.



Under which circumstances can a man marry a second wife? Discuss it in class.

2. The relationship between husband and wife is based on the principles of love, respect, and kind family relationship.

Allah the Almighty states that the institution of family must be based on the principle of “getting along well.” He expresses in a verse: **“And live with them (spouses) in kindness. For if you dislike them – it may be that you dislike a thing and Allah brings through it a great deal of good”**⁷

During his Farewell Pilgrimage our Prophet – peace be upon him – stated: *“You have rights over your women, and your women have rights over you. Your rights over women are; her not allowing anyone else to lay in your bed and not giving consent for people whom you dislike to come into your home. Be careful! Their rights over you; for you to treat them with kindness and affection regarding the matter of their eating and dressing.”*⁸

Our Prophet commanded believers to treat their women kindly in his various sayings, and he described the husband who treats his wife kindly as a “propitious person.” *“The best of Muslims in terms of faith are the ones who are the best in terms of good morality. The most virtuous of you is the one who treats their family with virtuousness.”*⁹

5. Muslim, Nikah, 5; Nasai, Nikah, 4; Darimi, Nikah, 3; Ahmad ibn Hanbal, vol. II, 158, vol. III, 341, 359, vol. V, 409

6. Al-Nisa, 4: 3

7. Al-Nisa, 4: 19

8. Muslim, Hajj, 147

9. Ibn Majah, Nikah, 50; Darimi, Nikah, 55

3. Spouses do not have the right to agonize and oppress one another.¹⁰ *“Fear Allah on the matter of your women. There is no doubt that they are your helpers. You have gotten them as a trust from Allah.”*¹¹

The Holy Prophet always treated his spouses in the best manner. He always had a smile on his face and always spoke to them with kind words. He would often compliment his family members. Aisha (may Allah be pleased with her) narrated a

Almighty has removed the mercy out of your hearts?”¹³

According to what had been related from Abu Hurayra(r.a), an incident similar to this one had occurred as follows; one day the Prophet had kissed his grandson Hasan: Al-Akra b. Habis saw this and said: “I have ten children, but I never kiss any one of them”. The Prophet looked at him and said: *“The one who does not treat with mercy will not be treated with mercy.”*¹⁴

INFORMATION BOX

Spouses who have decided to live together for a lifetime must know the value of one another, they must abide by the laws of Islam. They must do this within mutual understanding and be willing to make sacrifices in order to to gain Allah's pleasure.

race in which she and the Prophet competed: *“The Messenger of Allah (pbuh) had a foot race with me and I surpassed him. This had occurred when I had been slim. We raced again later on, at a time when I gained some weight, however this time He surpassed me.”*¹²

4. The relations between the children and parents are founded upon the basis of mutual love and respect.

The Holy Prophet - peace be upon him - would treat his children, grandchildren, and the children of the Companions with compassion and He always was merciful towards them. He would also encourage his Companions to act in this way.

According to a report narrated by Aisha (may Allah be pleased with her), an Arab man came to the Messenger of Allah and said; “You love and kiss little children, whereas we do not kiss them” The Prophet in return said: “What can I do if Allah

The mother and father must treat their children justly: *“Whom ever has two daughters and does not kill them, belittle them, and does not prefer to have sons instead of them, Allah will place them in Paradise.”*¹⁵

Children must show their parents the respect they deserve. This is especially important when the parents are in their elder years: **“Your Lord has enjoined you to worship none but Him, and to show kindness to your parents. If either or both of them attain old age in your dwelling, Show them no sign of impatience, nor rebuke them; but speak to them kind words. Treat them with humility and tenderness and say: ‘Lord, be merciful to them. They nursed me when I was an infant.’”**¹⁶ However, it should not be forgotten that obeying the orders given by other people is only acceptable when these orders do not conflict with Allah's commands and prohibitions. When obeying parent's requests, this principle should not be forgotten.

10. Abu Dawud, Sunnah, 14

11. Abu Dawud, Manasik, 56

12. Ibn Majah, Nikah, 50

13. Bukhari, Adab, 18

14. Bukhari, Adab, 18, 27

15. Abu Dawud, Adab 130

16. Al-Isra, 17: 23

So long as it is not an act of disobedience towards Allah, obeying the mother and father is considered to be compulsory. However the children do not have to obey the mother and fathers' commands and prohibitions if they are ordering them not to perform the obligatory acts of worship such as prayer and fasting or not to follow the rules of modesty and cover themselves. Thus it is commanded in a verse as follows: **"We have enjoined on man kindness to parents; but if they strive to make you join with Me that of which you have no knowledge, then obey them not. Unto Me is your return and I shall tell you what you used to do."**¹⁷

Of all people, the mother and father are the people who deserve most to be served and shown respect to. Once the Messenger of Allah was asked which deed was the most virtuous of them all and to this he said *"ritual prayer that is performed on time"* when he was asked *what is the second most virtuous deed* he answered *"kindness to the mother and father (birr)"*.¹⁸

A man came and said: 'O the Prophet of Allah which person is the most entitled to the best of my company? Who deserves most my getting along well with, my love and care?' he asked. The Prophet (p.b.u.h) answered: "Your mother!" The man then asked: "Then who?" The Prophet (p.b.u.h) replied: "Your mother!" The man once again asked: "Then who?" Allah's Messenger once again replied: "Your mother!" The man asked once again: "Then who?" For his fourth answer Allah's Messenger then said: "Your father!"¹⁹



The Messenger of Allah has made clear in many of his sayings that cutting off ties with the mother and father is considered to be of the great sins. *"There are three types of people that can not enter Paradise: The person who does not obey the rulings of the mother and father; the person who loves alcohol; and the person who persistently holds their good deeds over others."*²⁰

5. The members of the family should have a strong faith in Islam and do good deeds.

In this matter, Islam has given the responsibility to the head of the family. Our Prophet - peace be upon him - has said *"The best legacy the father can leave his child is that of good morality"*²¹ The mother and father who pay attention to this hadith must pay attention in raising their children as people with good morals and manners.

The parents should raise their children according to the teachings of Islam and they should prepare them for the afterlife. It is stated in a hadith: *"Every child that is born is born with the nature of Islam. The mother and father will later turn them into a Jew, Christian, or a fire-worshipper."* After Abu Huraira related the hadith above he read the following verse: **"O Muhammad! So direct your face toward the religion, inclining to truth. (Adhere to) the fitrah of Allah upon which He has created (all) people. No change should there be in the creation of Allah. That is the correct religion, but most of the people do not know."**²²

6. Importance must be given to the child's education.

Islam gives great importance on the matter of raising a propitious child. Allah the Almighty states: **"O you who believe! Save yourselves and your families from a fire whose fuel is men and stones..."**²³ After this verse was revealed, Umar (ra) said "O Messenger of Allah! We know that we can protect ourselves from the punishment of Hell fire by following the rulings of Allah and His Messenger. But we do not know how we will protect

17. Al-Ankabut, 29: 8

18. Muslim, Iman, 137

19. Buhari, Adab 2; Muslim, Birr, 1

20. Nasai, zakat, 69

21. Tirmidhi, Birr 33

22. Al-Rum, 30: 30

23. Al-Tahrim, 66: 6

our spouses and children?” The Prophet of Allah said: *“If you order them to follow Allah’s orders and tell them to avoid Allah’s prohibitions, this action of yours will be a means to protect them from Hell fire.”*

Everyone is responsible for the people who are under their management. Allah’s Messenger has stated: *“All of you are guardians and responsible for your wards and the things under your care. The Imam (i.e. ruler) is the guardian of his subjects and is responsible for them and a man is the guardian of his family and is responsible for them. A woman is the guardian of her husband’s house and is responsible for it. A servant is the guardian of his master’s belongings and is responsible for them.”*²⁴

24. Bukhari, Jum’a, 11

The mother and father are the best role models in showing their children the right behaviour of good morality. Thus Allah the Almighty states **“Enjoin prayer on your family (and people) and be diligent in its observance.”**

The Qur’an has summed up the qualities of a good Muslim and a social identity that is expected from a child to have in the advice given by Luqman (p.b.u.h.) to his son: **“O my son, establish prayer, enjoin what is right, forbid what is wrong, and be patient over what befalls you. Indeed, [all] that is of the matters [requiring] determination. And do not turn your cheek [in contempt] toward people and do not walk through the earth exultantly. Indeed, Allah does not like everyone self-deluded and boastful.”**²⁵

25. Luqman, 31: 15-19

INFORMATION BOX

The Prophet has stated that virtue and blessings for people can be found in these three things: “When humans die their book of deeds gets closed. Due to three reasons their book of deeds will remain open: Continuous charity (sadaqa Jariyah), knowledge that is benefited from, and a virtuous child with good morals.” (Tirmidhi, Ahkam, 36).

B. THE BENEFITS OF MARRIAGE

1. It enables the continuation of the Muslim generations:

Our Prophet has encouraged marriage in his many sayings, and he has stated that he will boast with the greatness of the number of his people. Allah’s Messenger - peace be upon him - said: *“Marry women who are Wadud (very loving) and Walud (very fertile), for I will boast of your large*

*population before the other nations.”*²⁶

Allah the Almighty states in a verse: **“And those who say: Lord, give us joy in our spouses and our children, and make us examples to those who fear You.”**²⁷ This shows us that the most important objective of marriage is to bring about moral generations.

26. Abu Dawud, Nikah, 3/2050; Nasai, Nikah, 11

27. Al-Furkan, 25: 74

2. It generates a peaceful society and closes the gates for illegal relationships

Just as marriage protects the individual, it also protects society. When individuals become virtuous, then the community will also become virtuous and righteous. Our Prophet - peace be upon him - said of this topic that *“Upon whomever Allah bestows a righteous woman, He has helped him with half his religion. As for the matter of the other half (of his religion) he should fear and be wary of Allah.”*²⁸

With marriage the individuals take care of their carnal desires which exist in their nature through licit ways. By attracting our attention to this our Prophet - peace be upon him – said that:

*“If someone whose faith and morals impresses you asks for your daughter’s hand in marriage, let them marry. If you do not do this, mischief and corruption will emerge on earth.”*²⁹

In a society in which marriage is not common or it is not easy to get married, the occurrences of perversion will increase and people’s honor and purity will be threatened. Many families will be destroyed and many families will live in a state of unrest.

3. It gives a person a sense of thrust and peace.

People are in need of other people with whom they can share their happiness and sorrows.

The love and tendensies of man and woman towards one another gain a entirely different dimension thanks to marriage. In fact our Prophet - peace be upon him – stated that: *“there is nothing that increases love between those who love each other more than the marriage does.”*³⁰

The man and woman are in need of each other and each of them can not continue their lives contentedly without the other. This is expressed in the Qur’an as follows:

“They are clothing for you and you are clothing for them.”³¹

Also, one of the wisdom of marriage in Islam is that the man and woman find peace in one another. This is stated in the Qur’an: **“And of His signs is that He created for you from yourselves mates that you may find tranquillity in them; and He placed between you affection and mercy. Indeed in that are signs for a people who give thought.”**³²

4. It is an opportunity for spouses to gain spiritual rewards:

In Islam, the marriage agreement is considered to be a legal procedure and also an act of worship.

Matters in marriage such as the man taking care of his wife’s needs, and the woman carrying out her husband’s acceptable requests and taking care of their children are all a means of gaining spiritual rewards. In addition, marriage is also a means of gaining spiritual rewards because it is a way of taking care of the carnal desires through licit ways.

In addition to the benefits that have already been discussed above, marriage has many other benefits. Some of them are as follows:

- Preventing the conception of children out of wedlock,
- The correction and improvement of the negative attributes of the inner self,
- Experiencing the love of children,
- Being taken care of in old age,
- The increase in the number of relatives,
- Becoming stronger by becoming more populated...

28. Hakim, Mustadrak II, 175

29. Tirmidhi, Nikah, 3

30. Ibn Majah, Nikah, 1

31. Al-Bakara, 2: 187

32. Al-Rum, 30: 21

C. MATTERS NEEDED TO BE PAID ATTENTION BEFORE MARRIAGE

Once a promise has been given, unless there is a very important reason, it should not be broken. Allah the Almighty states: **“Keep your promises; you are accountable for all that you promise.”**³³

- It is not acceptable to propose to someone else's fiancée. It is stated in a saying of the Prophet: *“One of you should not make a sale on top of your brothers' sale. And also he should not propose to someone to whom his brother has already proposed.”*³⁴

- It is not allowed for a female to socialise freely and be alone with a male who is not one of her close relatives with whom she is not allowed to get married. Our Prophet - peace be upon him - stated: *“A person should not be alone with a woman with whom he is allowed to get married. Otherwise the third among them will be the Satan. However it is an exception when one of their close relatives is with them.”*³⁵

- *Provided that there is a third person with them and that it is in a place open to everyone, it is possible for prospective spouses to look at each other's faces, talk about marriage, and to learn the opinions of the other on this matter. Mughira ibn Shu'ba (r.a) wanted to marry a woman. The Prophet - peace be upon him - said to him; “Go and see her. Because seeing each other will help you both in warming up to each other.”*³⁶

Marriage is an agreement that brings together a male and a female, who had no impediments to get married, in order for them to share their lives with one another and also to continue the upbringing of generations. This is the reason the man should not act according to the desires of his inner self when looking for a life partner. There are factors that he must take into consideration:

a) When choosing a wife, the one who is religious and moral should be preferred. It is stated in a saying of the Prophet: *“A woman is married for four things; her wealth, her family status, her beauty, and her religion. So you should try to marry the religious woman, so that you may enjoy*



welfare.³⁷ The Messenger of Allah has pointed out the drawbacks of marrying women only for her beauty or wealth: *“Do not marry women only for their beauty, it might be that their beauty could be a reason for them to decline in morality. Also do not marry them only for their property, because their property can open the way to their rampancy. Marry them because of their piety. There is no doubt that a ragged-clothed female slave who is pious is much superior to the others.”*³⁸

b) Families that are of virtuous ancestry and descent should be preferred. This is why it is reprehensible to marry a woman whose father is unknown or to marry a woman who has fallen down the wrong path. Allah the Almighty states: **“The fornicator does not marry except a [female] fornicator or polytheist, and none marries her except a fornicator or a polytheist, and that has been made unlawful to the believers.”**³⁹ In marriage, one should strive to choose a partner who is not closely related but rather is a stranger to the family in order to prevent the possible problems such as blood incompatibility, birth defects, and others. Although it is acceptable to marry the daughter of the uncle and aunt (daughter of the father's brother and sister, daughter of the mother's brother or sister), ties between the family may get damaged if a disagreement or divorce takes place in the marriage.

33. Al-Isra, 17: 34

34. Bukhari, Buyu, 58

35. Bukhari, Nikah, 111, 112

36. Abu Dawud, Nikah, 18

37. Bukhari, Nikah, 15

38. Ibn Majah, Nikah, 6

39. Al-Nur, 24: 3

c) **One should try to marry a woman who radiates joy, is favorable, obedient, virgin, and fertile.** It is stated in a hadith: *“Prefer virgin girls for marriage. Because they are pleasant to be spoken, satisfying, and they will be content with much less.”*⁴⁰ *“Marry a fertile woman who can love her husband...”*⁴¹ It is also stated in another hadith as follows:

40. Ibn Majah, Sunan, I, 597

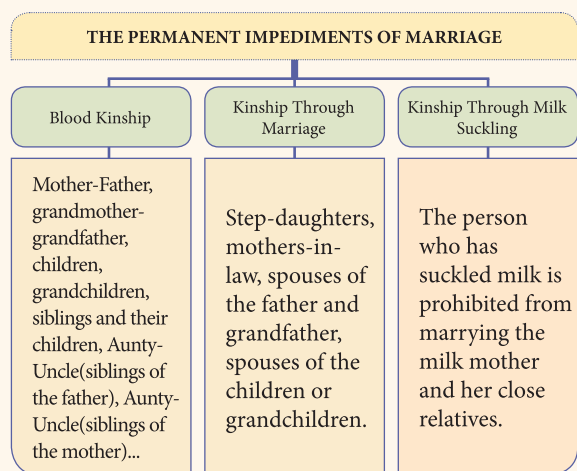
41. Abu Dawud, Nikah, 3

Our Prophet was asked; “Which woman is the most virtuous?” The Messenger of Allah replied to this: *“When her husband looks at her, she gives him happiness and joy, if he asks something, she obeys. She protects her husband’s honor even when he is not home.”*⁴²

42. Ahmad b. Hanbal II, 251, 432

D. THE IMPEDIMENTS OF MARRIAGE

All of the impediments of marriage have been mentioned in the Qu’ran as follows: **“Prohibited to you [for marriage] are your mothers, your daughters, your sisters, your father’s sisters, your mother’s sisters, your brother’s daughters, your sister’s daughters, your [milk] mothers who nursed you, your sisters through nursing, your wives’ mothers, and your step-daughters under your guardianship [born] of your wives with whom you have lain.”**⁴³ In this verse, it is made clear that three groups of relatives constitute a permanent impediment of marriage:



The following are the impediments to marriage that continue for a lifetime:

1- Blood Kinship: A person can not marry his mother, grandmother, daughter, grandchildren, siblings and their children and the sister of their mother and father. The sisters of the grandfathers,

who are considered to be great-aunties, are also considered to be within the limits of the prohibited. When we come to the female, the same exact situation applies to her but in relation to her male relatives. For instance, she is not allowed to marry her father, grandfather, son, grandson, brother and the children of her brother.

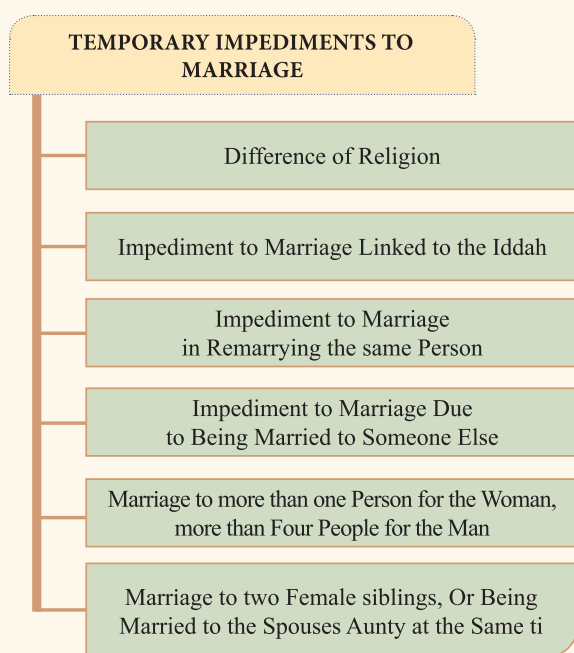
2- Kinship through Marriage: The kinship that is established by marriage continues until the time of death. We can categorise kinship through marriage for a male into four groups. a. Step-daughters (the spouse’s children from her former marriage). b. Mothers-in-law c. The wives of the father and grandfather. d. The wives of the son or grandsons. Kinship through marriage for the female is the opposite of the males.

3- Kinship through Milk Suckling: In order to establish the kinship through milk suckling the milk of the foster mother must have entered the stomach of the child at least once and the milk must have been suckled within the child’s first two years of life. *“Kinship by suckling is only formed when the milk is suckled within the first two years of the child’s life.”*⁴⁴ According to the Maliki madhhab, if the child takes the nipple into his/her mouth but it is not certain whether or not the baby actually suckled on it, it will be considered that kinship through milk has been established as a precaution. According to Imam Malik, kinship through milk can only be established if the milk-suckling was witnessed by one male and female or two females.

43. An-Nisa, 4: 23

44. Bukhari, Nikah, 21

Marriage to the foster mother's relatives is prohibited for the milk sucker. Our Prophet - peace be upon him – said that: *“What is prohibited by birth is also made prohibited by suckling milk.”*⁴⁵ A person can not marry his/her foster mother's husband, foster siblings (children who also suckled from the foster mother), all the children, and grandchildren that sucked milk from the foster mother and all of their spouses, the mother and father of the foster mother and her husband, the siblings of the foster mother, the siblings of the foster mother's husband.



The temporary impediments to marriage are these:

1- Difference of religion: The Muslim man and woman can in no way marry a polytheist.

The Muslim man is only allowed to marry People of the Scripture, in other words a Christian or Jewish woman. It is stated in the Qur'an: *“... And [lawful in marriage are] chaste women from among the believers and chaste women from among those who were given the Scripture before you, when you have given them their due compensation (mahr or dowry).”*⁴⁶ It is prohibited for a Muslim woman to marry a man who is a person of the Scripture.

According to Islamic law, the marriage is automatically annulled when a Muslim converts out of Islam and become a polytheist or disbeliever or when a woman's Muslim husband becomes a Christian or Jew. If they return to Islam and become a Muslim again, in order for them to remarry, they need to reperform the marriage agreement.

2- The impediment to marriage linked to the iddah: When the marriage comes to an end due to death or divorce, the period of time a woman must wait to be able to get married again is called “iddah.” When the marriage comes to an end due to the death of the husband, the length of iddah period that the woman must wait in order to remarry is four months and ten days. The iddah of the divorced woman is complete after she sees three menstruations and gets cleaned. For those who do not menstruate, their iddah is considered to be three months. If the woman is pregnant at the time of her husband's death or at the time of divorce, the period of iddah she will have to wait to be able to remarry is up until the birth of her child.

3- The impediment to marriage in remarrying the same person: For a woman divorced from her husband three times with bain^{47*} or riji^{48**} type of divorce, to be able to remarry her husband, she must first get married with another man with whom she has had a genuine marriage with and then get divorced from him. Allah The Almighty states: *“If a man divorces his wife (for the third time), he cannot remarry her until she has wedded another man and been divorced by him; in which case it shall be no offence for either of them to return to the other, if they think that they can keep within the bounds set by God.”*⁴⁹

4- The impediment to marriage due to being married to someone else: This is stated in the verse: *“And [also prohibited to you are all] married women.”*⁵⁰

45. Bukhari, Shahadah, 7; Muslim, Rada', 1

46. Al-Ma'idah, 5: 5

47. * The type of divorce which allows the couples to get remarried with each other with new marriage contract after the first two instances of divorce.

48. ** The type of divorce which allows the couples to get remarried with each other without needing a new marriage contract after the first two instances of divorce.

49. Bukhari, Talaq, 7

50. Al-Nisa, 4: 24

5-The impediment to marriage of already being married to a man for the woman, and to four women for the man: It is an impediment to marriage for the woman to marry another man when she is already married. Under certain conditions, Islam has given permission to the man to marry more than one woman. However it is forbidden for the man to marry more than four women at the same time. Allah has ordered: **“And if you fear that you will not deal justly with the orphan girls, then marry those that please you of [other] women, two or three or four. But if you fear that you will not be just, then [marry only] one of those your right hand possesses. That**

is more suitable that you may not incline [to injustice].”⁵¹

6-The impediment to marriage for the man to marry two siblings, or to marry the woman along with her aunty in the same marriage: It is stated in the Qur'an: **“...And [also prohibited is] for you to take [in marriage] two sisters simultaneously, except for what has already occurred.”**⁵² Our Prophet has stated: *“The wife and her aunty (sister of mother and father) can not be put together under the same marriage.”*⁵³

51. Al-Nisa, 4: 3

52. Al-Nisa, 4: 23

53. Bukhari, Nikah, 27

E. NONBINDING MARRIAGES AND THE AUTHORITY OF THE GUARDIANS

Even if some marriage contracts have taken place they are not considered binding. Here the authority of the guardians or the girl who is to be married is taken into consideration. The following are cases of this:

a) Marriages that take place without the knowledge of the guardian (mother and father): Our Prophet states: *“Marriage can only be possible with the wali (guardian).”*⁵⁴

It is not regarded as appropriate for the girls to marry without the consent of their guardians. Because women are emotional beings, they can easily be manipulated by men and this can be a source of regret for her in her future life. This matter has been clearly expressed in the sayings of the Prophet: *“If a woman marries without the consent of her guardians, that marriage will be deemed invalid, invalid, invalid.”*⁵⁵ *“The woman can not marry off a woman. Also the woman can not marry herself off.”*⁵⁶

Concerning the marriage the guardian should not consider himself as more authoritative than the girl who is to be married. This is because marriage

is a matter of the heart. If a girl wants to get married, has consulted the elders of the family about it, and has still decided to marry, then the girl's choice should be given importance to and the marriage ceremony should be performed. Our Prophet - peace be upon him - said: *“The single woman has more of a right of opinion concerning the matters of herself than the guardian does.”*⁵⁷

As for the widowed woman who has become familiar with the character and nature of a man who is suitable for her, she is able to marry even without the consent and presence of her guardians: *“The guardian can not do anything concerning the widowed woman.”*⁵⁸

b) When the guardian forces a girl to marry: Aisha (r.anha) explains the Prophet's practice in regards to girls being forcibly pushed into marriage: *“Al-Hansa (r.anha), the daughter of Hidam who is from Ansar, came to Aisha (r.anha) and said; “My father has married me to his sibling's son in order to enhance the family's reputation. But I do not want this marriage” she said. Aisha said to her; “Wait here until the Messenger of Allah - peace be upon him - comes.” When the Prophet came Aisha explained the*

54. Bukhari, Nikah, 36

55. Abu Dawud, Nikah, 19

56. Ibn Majah, Nikah, 15

57. Abu Dawud, Nikah, 25

58. Abu Dawud, Nikah, 25; Ahmad b. Hanbal, I, 334

situation to him. He then called the father of the girl and gave the girl the right of choosing whether or not she wants to marry. After this the woman said: "O Messenger of Allah! I have accepted the marriage that my father has arranged. However, with this action of mine, I wanted to let all women know that fathers do not have such authority when it comes to marriage."⁵⁹

c) When the girl and boy are not suitably equal to one another (kafa'ah): The term kafa'ah is used when the potential suitor is equal to the woman. Equality is only looked for in respect to piety and being free from defects that hinder the person's freedom of choice.

A man being at the same level of a woman is especially important in order for the woman to be protected. A man who commits sins, who does not obey the religious principles, and who does not possess moral values is not considered to be equal to the virtuous and modest woman.



The guardian should strive to marry their daughters to men they find are suitably equal to them. The Messenger of Allah told Ali (ra): "Do not delay three things: The prayer when it is time, a funeral when it is ready and marrying a girl when you have found her match."⁶⁰

59. Ahmad b. Hanbal, VI, 368

60. Tirmidhi, Salat, 13

F. INVALID MARRIAGES IN ISLAM

A marriage agreement which fulfills the following requirements is considered valid: it needs to be carried out between a mentally capable and mature Muslim male and a mentally capable and mature Muslim woman, who had no impediments to marriage between them, in the presence of two witnesses, and announced to the public. However the marriage types mentioned below are not considered as valid unless the problems within these marriage agreements are solved.

If a marriage does not have one of the conditions needed in Islam in order for it to be a lawful and valid marriage, this is called a "fasid (imperfect) marriage" or a "batil (invalid) marriage."

1-Mut'a Marriage: This is the type of marriage where a man and woman are married for only a certain period of time. This type of marriage used to be lawful in the early years of Islam due to the necessities of the public but then it has been

prohibited by the Prophet (p.b.u.h.). It was related from Sabra b. Ma'bad (r.a): "The Messenger of Allah prohibited the mut'a marriage at the time of his Farewell Pilgrimage."⁶¹

The mut'a marriage is an abrogated type of marriage. When a man asks from a woman: "I would like to benefit from you for a certain period of time in return for such and such amount of money", and if the woman accepts this offer, a "mut'a marriage" is established. Our Prophet - peace be upon him - prohibited the mu'ta marriage: "O people! I had given you permission regarding contracting of temporary marriage with women. Behold, it is forbidden from this very day of yours to the Day of Resurrection, and he who has given something (as a dower) should not take it back."⁶²

61. Bukhari, Maghazi, 38

62. Muslim, Nikah, 22

2- Shigar Marriage: The shigar marriage is when a man marries his daughter to someone provided that the other one also gives his daughter to him in marriage. The women in these cases do not receive any kind of mahr (dowry), and also each of the men are able to marry the woman who is under the guardianship of the other without giving any dowry. When this kind of marriage is carried out, it must be annulled and it will not be acceptable.

3- Marriage with a woman who is engaged to marry another man: Marriage with a woman who is already engaged to marry another man will be considered batil, in other words invalid. If the woman seems as if she is leaning towards a positive answer in regards to the proposal of the first man, the marriage to the second man will be annulled.

4- Hulla Marriage or Tahlil: This is the type of marriage where a man agrees to marry a woman only to make it permissible for her to marry her ex-husband whom she has already divorced three times. This type of marriage will be annulled.

“Hulla” is the term used for the process in which a woman who has divorced her husband with three talaqs gets married to another man that may end with his death or divorce. As a result of such marriage marriage between the woman and



her ex-husband becomes permissible. This process is called “hulla or tahlil;” however, people who purposefully agree to take part in the hulla process (who had no intention to continue the marriage) have been cursed. The following has been related from Abdullah b. Masud: *“The Messenger of Allah has cursed the one who carries out the contractual hulla marriage and also the one who takes part in it.”*⁶³ It has been stated in another hadith: *“Should I tell you all about the goat that is for rent? “Yes, the Messenger of Allah” they all said. And He said: That is the one who makes the woman halal through the contractual marriage. Allah the Almighty has cursed the one who makes the woman halal and the one who is being made halal.”*

63. Tirmidhi, Nikah 27; Nasai, Zinah, 25

G. FACTORS THAT SHOULD BE KNOWN ABOUT THE MARRIAGE AND WEDDING CEREMONY

Islam does not consider it lawful for the man and woman to perform the marriage without the knowledge of others. The presence of witnesses is a fundamental condition of the marriage. Even if the marriage was performed without the presence of witnesses, the matter of the agreement taking place should be made known and announced before the consummation of the marriage.

Allah the Almighty states: **“Call in two male witnesses from among you, but if two men cannot be found, then one man and two women whom you judge fit to act as witnesses will do.”**⁶⁴

During the marriage ceremony, the parties of the marriage contract must announce to everyone that they accept the marriage that will be taken place. The details of the dowry need to be determined at the ceremony.

64. Al-Baqarah, 2: 282

In marriage, it is considered to be recommended (mustahab) that the family elders be present at the marriage ceremony, that a sermon be delivered, that invocations be recited and meanwhile that food be served (walimah).

The announcement is an important condition of the marriage. And this is mostly realized by means of the wedding ceremony and the banquet. The marriage is not valid when the marriage takes place in the presence of a witness with the intent of it being carried out in a secretive manner and is not announced to anyone. Our Prophet - peace be upon him - stated: *"Announce the marriage and perform them at the masjids."*⁶⁵ This hadith shows that there is religious side of the marriage contract and that it must be announced in order for it to be acceptable.

Wedding ceremonies should be entertaining and joyous occasions. The Messenger of Allah – peace be upon him – said that: *"Announce the marriage. Perform them at the masjids and play the tambourine afterwards."*⁶⁶ It is more appropriate to the spirit of Islam for the men and women to enjoy the pure entertainment provided that it is carried out in gender segregated groups. Hymns, poems, instrumental and light music can be listened to at the wedding ceremony. However, types of entertainment that leads to committing sins is considered unacceptable.

The entertainment and the food served during the ceremony should be in accordance with Islamic principles. The Messenger of Allah has made it very clear that a Muslim should not sit at a table where



alcohol is being served and consumed. *"The person who believes in Allah and the Last Day should not sit at a table where alcohol is being served."*⁶⁷ If someone is obliged to attend a wedding ceremony where prohibited deeds are committed or if it was not known about beforehand, as soon as they see the wedding ceremony (and the prohibited acts) they should distance themselves from that venue and let the people who are responsible for the wedding know about this situation.

The food served at a wedding is called "walimah". The Messenger of Allah (p.b.u.h.) has highly recommended serving food at weddings. Thus, when the Prophet found out that Abdurrahman ibn Awf (d. 32/652) was going to get married, he said to him *"even if it means slaughtering a sheep, serve a wedding banquet."*⁶⁸ The food served at a wedding should not be too much and showy. Thus it is stated in a hadith: *"Giving the walima on the first day (of*

65. Tirmidhi, Nikah, 6

66. Tirmidhi, Nikah, 6

67. Shawkani, Naylul Awtar, II, 203

68. Darimi, At'ima, 28, Nikah, 22



EXAMINE

What conditions are required in order for a marriage to be valid according to Islamic law? Examine the different opinions of madhhabs and state the ones that are common.

*the wedding) is a right, it is pleasant on the second day. It is, however, a means of gaining popularity and show off to serve food on the third day.*⁶⁹

The poor and the destitute should especially be invited to the weddings.

It is considered necessary for the invitees to accept the invitation and join it if it is possible for them to get to the venue of the walimah. *“Whoever is invited to a wedding and does not attend, they*

69. Abu Dawud, At'ima, 3

*will have shown an act of rebellion against Allah and His Prophet.*⁷⁰ *“When one of you is invited to a wedding banquet, they should go.”*⁷¹ For the person who is invited to more than one weddings, it is best for him/her to prefer to attend the invitation of his/her relatives or close neighbors. If one of the invitations was given earlier than the others, it is more appropriate to prefer to attend this first one.

70. Bukhari, Nikah, 72

71. Bukhari, Nikah, 71

H. MAHR (DOWRY)

Mahr (dowry) are the goods that are given to the woman due to the sexual gratification that will be consummated after the marriage is performed. Mahr is one of the conditions for the validity of a marriage.

Everything can be given as a mahr as long as it is something that is not prohibited to be sold and used according to Islamic law. There is no maximum limit for how much the quantity of the mahr should be. It is stated in the verse: **“... and you have given unto one of them (wives) a sum of money (however great), take nothing from it.”**⁷² As for the minimum quantity of mahr, it should be more than a quarter dinar or three dirhams.

The Prophet (p.b.u.h.) gave great importance to the establishment of the details of the mahr. When Ali (ra) was marrying the Messenger of Allah's daughter Fatima, he gave her a very valuable shield called “Hutami shield” as a mahr.⁷³

The Prophet of Allah advised one of his Companions wanting to marry a woman to give her a gift as a mahr, but when he realized that he was poor he said *“even if it is a metal ring, look for it at home and bring it”*, when the poor Companion was not even able to find it, The Prophet married them in return for teaching what the poor man knew of the Qur'an to his prospective wife.⁷⁴

72. Al-Nisa, 4: 20

73. Nasai, Nikah, 76

74. Nasai, Nikah, 62

Mahr supports and gives the woman a sense of financial security in the case that she unexpectedly loses her husband or if he divorces her. This mahr will support her financially up until the time she gets her life back on track.

The quantity of dowry to be given to the woman:

1-) Complete Dowry:

a) After the marriage has been consummated, the woman is entitled to receive the complete mahr. It is stated in the verse: **“How can you take it back when you have lain with each other and entered into a firm contract?”**⁷⁵

b) In the case of the death of the husband, the woman becomes entitled to the complete mahr. If the woman passes away, her mahr will be given to her heirs.

2) Half Dowry:

If a marriage in which the amount of mahr has been established ends before it is consummated, the woman will receive only half the mahr. This is mentioned in the following verse as: **“If you divorce them before the marriage is consummated, but after their mahr has been settled, give them the half of their mahr, unless they or the husband**

75. An-Nisa, 4: 21

agree to waive it. But it is more proper that the husband should waive it. Do not forget to show kindness to each other. God observes your actions.”⁷⁶ If the the entire mahr has already been paid for in advance, the woman must give half of this mahr back to her husband.

3) Mut’a (the consolation gift):

If at the time of the marriage agreement no mahr has been established and if the woman dies



76. Al-Baqara, 2: 237

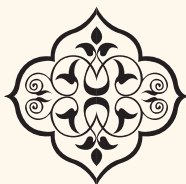
before its settlement and before the consummation of the marriage, there will be no need for any mahr to be paid. In this case the woman becomes entitled to the mut’a (consolation gift) and inheritance.

“It shall be no offence for you to divorce your wives before the marriage is consummated or the mahr settled. Provide for them with fairness (mut’a); the rich man according to his means and the poor man according to his. This is binding on righteous men.”⁷⁷ The term mut’a that is mentioned in this verse means the property, clothes or food that the husband gives his ex-wife with whom he has divorced.

4) The Case that the mahr not being a necessity:

If the marriage agreement is not valid and if the seperation has taken place before the consummation of the marriage or if they have been separated by a judge, the man does not need to give any mahr or mut’a. Also if the marriage ends because of something to do with the woman such as her conversion out of the religion, the woman will not be entitled to a mahr.

77. Al-Baqara, 2: 236



Reading Text

EMBRACE ISLAM AND I WILL MARRY YOU

In order to harmoniously continue the life of marriage and to be able to achieve its important goal, the relations between the husband and wife must be healthy, the family ties must be strong, and the family must be built on steady foundations by starting with choosing a good spouse.

There is a good Muslim woman in Islamic history who is a nice role model for us in achieving all these: namely Ummu Sulaim binti Milhan...

Ummu Sulaim was one of the Ansari women living in Medine who embraced Islam first. She married Malik b. Nadr and had a son named Anas with him.

When Ummu Sulaim accepted the religion of Islam, her husband Malik could not handle this and left her. Not many years had passed when she received the news of his death. She, herself, was still very young. She handled all this in a state of patience, waiting for her spiritual rewards only from Allah.

At the time, Abu Talha, one of the rich, powerful and handsome, elite youngsters of Medina, who had not yet embraced Islam, proposed to her. Being the man who was always talked about in admiration by the girls of Medina, he thought that Ummu Sulaim would willingly accept his proposal. Ummu Sulaim answered him saying:

- O Abu Talha! You are not a Muslim and you worship idols. I can not accept your proposal. And do you not know that the idol which you worship was once a tree that was growing in the soil? And a certain Abyssinian had cut that tree and whittled it into what it is now.

Abu Talha explained in length the large quantities of dowry he would give her and that he would ensure her a life of abundance and comfort. After Ummu Sulaim listened to him she said:

- I swear by Allah that you are definitely not someone who should be turned away. But you are an infidel and I am a Muslim woman. It is not permissible for me to marry you. If you accept Islam, your acceptance of Islam can be my mahr. I do not want any other property or goods from you.

On the second day, Abu Talha came up to Ummu Sulaim with a proposal including even a larger quantity of mahr and offered her even more goods. And he asked for her hand in marriage again. Ummu Sulaim once again made clear that she wouldn't marry him if he didn't become a Muslim and said:

- The idols to which you all worship have been made by so and so man's slave who is a carpenter. If you throw them in the fire, will these idols not burn? Abu Talha who was affected by these logical and thought provoking words started to ask himself these questions:

- How can a being that is accepted as God burn? Had not they indeed made their idols with their own hands? As he was processing these thoughts, the words of the Kalima Shahadah rolled out of his mouth and he became a Muslim.

It was at that moment that Ummu Sulaim happily asked her son Anas to immediately call for witnesses. The witnesses came and the marriage contract was performed and it was announced to the public.

Abu Talha wanted to bestow all of his wealth upon Ummu Sulaim but she didn't accept it. And she showed such an act of sacrifice that it could be an example for all women throughout history and she said:

- O Abu Talha! I married you for the sake of Allah. I do not want any other mahr from you besides this.

Ummu Sulaim knew very well that Abu Talha's conversion to Islam didn't just enable her to have a nice husband that was equal to her, she also gained lots of spiritual rewards from Allah. Our Prophet's saying is sufficient in making clear the nature of this reward: *"By Allah, if He were to guide a single man through you, this would be better for you than a herd of red camels."* (Bukhari, Muslim)

I. NAFQA (ENSURING THE MAINTENANCE OF THE FAMILY MEMBERS)

Nafaqa is the term used for the payment of expenses of the person maintaining both himself and the people for whom he is responsible to look after.

After a woman is married, the expenses of her food, dressing, and housing are to be paid by her husband. The husband must pay for the expenses of his wife's food and clothing. **"The father of the child shall bear the cost of the mother's food and clothing on a reasonable basis."**⁷⁸ The wisdom behind this has been explained in the following verse of the Qur'an: **"Men have authority over women because God has made the one superior to the other, and because they spend their wealth**

to maintain them."⁷⁹

The quantity of the nafaqa has not been specified in Islam; the financial state of the man and woman is to be considered in regards to this matter. It is stated in the Qur'an: **"Let the rich man spend according to his wealth, and the poor man according to what Allah has given him. Allah does not charge a man with more than He has given; Allah, after hardship, will bring ease."**⁸⁰

The man's inability to support his wife due to his poverty is not considered to be a reason for divorce. The proof of this is stated in the following verse: **"If they are poor (people to get married), Allah will enrich them from His own bounty."**⁸¹

The responsibility of the children's nafaqa is upon the husband. The children's eating, clothing, and housing needs are included in this nafaqa. It is stated in the 6th verse of chapter al-Talaq: **"And if they (child's mother) breastfeed for you (your children), then give them their payment and confer among yourselves in the acceptable way."** It is explained here that the divorced woman is entitled to be paid for breastfeeding her child after she has completed her iddah. And this shows that the responsibility of the child's nafaqa is upon the father.



78. Al-Baqara, 2: 233

79. Al-Nisa, 4: 34

80. Al-Talaq, 65: 7

81. Al-Nur, 24: 32

INFORMATION BOX

Under some circumstances the woman loses her right to the nafaqa. Below are these circumstances:

- Despite the husband's invitation, the woman's refusal to come home or if she leaves home in a disobedient manner, in this case the man does not need to pay the nafaqa.
- If the woman leaves Islam, the man is no longer required to pay the nafaqa.
- The separation caused by the fornication of the woman or by her some other sin, in this case he doesn't need to pay the nafaqa.

The father is responsible for taking care of his son up until the age of his puberty. However if the son is disabled, ill or if he is not able to make money because he is studying at the time of his puberty, then the father will continue to be responsible for his child's care. As for the daughter, conditions such as age and reaching puberty are not taken into consideration. The father is responsible for the care of his daughters up until she gets married.

If the mother and father become poor or can not work anymore due to old age, the children will then be responsible for looking after them. It is stated in the verse: **"Your Lord has enjoined you**

to worship none but Him, and to show kindness to your parents."⁸² It has been related from Jabir b. Abdullah that the Prophet said that: A man and his father came up to the Prophet - peace be upon him - and said: "O Messenger of Allah! I have property that belongs to me, and my father also owns property. My father would like to own my property." Upon this the Messenger of Allah - peace be upon him - said: *"You and your property belong to your father."*⁸³

82. Al-Isra, 17: 23

83. Sunan Ibn Majah; Al-Sarahsi, *Al-Mabsut*, V, 222-229

J. THE WOMAN'S OBEDIENCE TO HER HUSBAND AND ITS LIMITS



The woman must obey her husband's requests so long as they are in accordance with Islam. When the Prophet was asked which woman is considered most virtuous, he said: *"The most virtuous of women are the ones that when her husband looks at her she gives him happiness and joy, if he orders, she obeys and she would not do the things her husband dislikes in regards to her property and personal life."*⁸⁴ It has been stated in other sayings of the Prophet: *"If a woman dies in a state that her husband is pleased with her, she will enter paradise."*⁸⁵ *"If I were to order*

*anyone to prostrate to someone other than Allah, I would order the wife to do so for her husband."*⁸⁶

If the woman does not listen to the words of her husband and openly rebels against him even though he treats her with respect and kindness, the husband then has the right to punish her. Allah the Almighty has explained the way in which this right should be used: **"But those [wives] from whom you fear arrogance - [first] advise them; [then if they persist], forsake them in bed; and [finally], strike them. But if they obey you [once more], seek no means against them. Indeed, Allah is ever Exalted and Grand."**⁸⁷

The woman should protect her husband's honor and decency. The Prophet - peace be upon him - stated in his Farewell Sermon: *"You have rights over them; that they should not allow anyone whom you dislike to sit on your bed and to not allow them into your house. But if they do that, you can chastise them but not severely."*⁸⁸

A husband can not beat his wife because he feels like it. He is not allowed to oppress her. An obedient and pious woman must not be punished because of a mistake they have made: *"Treat your wives well and be kind to them for they are your partners and committed helpers. As long as they do not openly commit a sin, you do not have any other*

84. Abu Dawud, Zakat, 32

85. Ibn Majah, Nikah, 4

86. Abu Dawud, Nikah, 40

87. An-Nisa, 4: 34

88. Muslim, Hajj, 47

rights over them other than this. If they do have open acts of rebellion, leave them to be alone in their beds and beat them lightly. If they obey you, do not look for any other way that will be against them.”⁸⁹

In Islam, the beating of people has been prohibited as a principle. The Messenger of Allah - peace be upon him - stated: *“Do not beat the worshippers of Allah.”* (Abu Dawud, Nikah, 42) *“Do not beat women.”* (Abu Dawud, Nikah, 41)

Aisha (d. 58/677) said about the way that our Prophet treated his family: *“In the way that the Prophet beat no woman from his family he also did not beat any servant. And again, He had hit nothing with his hand except when fighting in the cause of Allah or when disrespect was being shown to Allah’s prohibitions or when he was getting revenge for the sake of Allah.”*⁹⁰

Unless the woman has a serious disability, she must not turn away the sexual requests of her husband. *“When a man calls his wife for sexual intimacy and she refuses him, thus he spends the night in anger. The angels curse her until morning.”*⁹¹

The woman must get permission from her husband if she wishes to perform voluntary fasting, because the rights of the husband come before performing supererogatory fasting. Thus the Messenger of Allah stated: *“It is not permissible for a woman to fast (optional fasts) without her husband’s permission if he is at home (staying with her) and to let a stranger enter the house without his permission.”*⁹²

Under normal circumstances, the woman can leave her home with the consent of her husband. In a saying of the Prophet that was related from Abdullah ibn Umar (r.a), it is stated: *“A woman came to the Messenger of Allah and asked; O Messenger of Allah! What is the husband’s right over his wife? And He said the woman not to leave her husband’s house without getting his permission first. To her next question “what if she does, what happens to her,” the Messenger of Allah responded: “Allah and His angels of mercy and wrath will curse upon this woman until she repents or returns home.”* For her

question *“Is the situation same when the husband oppresses his wife?”* the Prophet answered: *“yes, even if he is an oppressor.”*⁹³

There are a few cases in which the woman may leave her home without the consent of her husband:

➤ The woman may go to Mecca to carry out the obligatory pilgrimage with a group of people who are considered to be morally reliable. The husband can not stand in the way of this.

➤ If the husband is not helpful in helping the wife in educating herself on religious matters and getting opinions on these topics, once a week the woman may go to places where she can learn religious matters and participate in talks without the consent of her husband. She may even ask people who are qualified of their opinions on religious matters.

➤ The husband can not prohibit his wife from visiting her parents who live in the same vicinity for once a week and he can not prohibit her from visiting her close relatives such as her siblings, uncle, aunty once a year. However, the woman can not spend the night somewhere other than her home without the consent of her husband. But if the woman’s parents become gravely ill and they do not have anyone to care for them, the woman may stay at her father’s house and take care of them even if her husband does not give his consent. However in such situation, the husband will not be held responsible for the nafaqa of the woman.

➤ The husband can not stand in the way of his wife visiting her children who she had with her ex-husband from a former marriage.

89. Bukhari, Anbiya, 1

90. Muslim, Fadail, 79

91. Bukhari, Bad al-Khalq, 7

92. Bukhari, Nikah, 86

93. Abu, Dawud, Nikah, 40

Reading Text

GETTING ALONG WELL IN THE FAMILY

“The woman who dies having gotten along well with her husband has a place in Paradise.”

Yazid, one of the Companions of the Prophet, had a daughter by the name of Asma. She could pleasantly and eloquently speak. One day the female Companions chose Asma as a representative from amongst themselves and sent her to the Prophet. They wanted her to go and learn of a topic which they had been curious of. Asma entered into the Prophet's presence and said this:

“O Messenger of Allah, may my mother and father be sacrificed for you! I am the messenger who the women have chosen from amongst themselves as their representative and I have been sent here by them. Allah the Almighty has sent you as a Messenger to all men and women. We believe in you and your Lord. However, as women we are closed off in your homes. We satisfy all of your carnal desires. We carry your children in our bellies. As for you men, you have long surpassed as with your privileges such as praying the Jum'a prayer, going to mosques and congregations, visiting the sick, being present at funerals, being able to perform the obligation of pilgrimage many times and also something that is more virtuous than all this you can go to holy war and carry out Jihad all for the sake of Allah. And also what is true is, when you leave the home to carry out the major or minor pilgrimage or

when you go to holy war with the infidels we are the ones who protect your property, we stitch up your clothes and nourish your children. Then are we as women, also not entitled to the spiritual rewards of these virtuous deeds to the same degree of the rewards which you gain from all your good deeds?”

Asma had spoken very well. After the Prophet had listened to her very carefully up to the end of her speech, he turned to the Companions who were with him and said:

“Have you ever heard more pleasant words from a woman than these as she was asking a question on the matter of religion?” he asked. Afterwards He said to Asma:

“O Asma! Understand this really well and explain to those women who have sent you that the woman who gets along well with her husband and makes him happy is considered to gain the same spiritual rewards as all of the rewarding acts of worship that you have just mentioned.”

Having received this answer, Asma left while saying prayers.



K. THE TERMINATION OF MARRIAGE (DIVORCE)

In Islam, the principle of “continuity” is considered to be essential. However because Islam is a religion which accepts the realities of society and bases itself on them, it has regarded the separation of spouses lawful who clearly will never get along, and spouses who have enmity and hate towards one another.

It has been advised that disputes in the family should first be tried to be solved using methods of peace and that the spouses should be tried to be reconciled with the help of arbitrators. **“And if you fear dissension between the two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allah will cause it between them. Indeed, Allah is ever Knowing and Acquainted (with all things).”**⁹⁴ If the problem can not be resolved by using these methods and if there seems to be major problems in the continuation of the marriage, then Islam, although it is not seen as something pleasant, permits the divorce.

In many sayings of the Prophet, it has been clearly mentioned that divorce is not something pleasant. Abdullah b. Umar related that the Prophet (p.b.u.h) had said: *“Of all the permissible things, the one thing Allah the Almighty dislikes most is divorce.”*⁹⁵

In the case of divorce, both spouses should not worry about the matter of livelihood. It is stated in the verse: **“But if they separate [by divorce], Allah will enrich each [of them] from His abundance. And Allah is ever Encompassing and Wise.”**⁹⁶

Valid reasons for divorce in Islam:

1-) Unchastity and giving harm to the religion: A divorce can be required when a spouse behaves in an unchaste manner, when he/she do not protect his/her honor, or when they prevent the other from performing the obligatory acts of worship such as prayer and fasting. And also when they commit sins such as consuming alcohol and gambling.



2-) Severe dissension and ill-treatment:

Spouses are allowed to ask divorce when one of them makes accusations concerning the other's honor, reputation and integrity, when one of the spouses forces the other to commit an act that has been declared prohibited by Allah or not showing interest to the other without an important reason.

3-) Disobedience towards the husband:

The husband can divorce the woman when she is disobedient towards him and does not comply with his sexual requests, when she rebels, when she is not happy with him even though he takes care of her nafaqa and in the case that she neglects their children.

4-) If the husband is sexually impotent: The woman can appeal to a judge with the purpose of ending her marriage if her husband is sexually impotent, or if he has physical defects such as not having a sexual organ or testicles.

5-) The Husband's inability to provide the Nafaqa: The husband is responsible for paying off the expenses of the woman's needs of food, clothing, and housing. If the husband does not take care of his wife and leaves her in hunger and poverty even though he is wealthy or has the opportunity to make money, in this case the woman should firstly try to obtain the nafaqa from her husband, if this is not possible it will be her right to find a way to divorce him.

94. An-Nisa, 4: 35

95. Abu Dawud, Talaq, 3

96. An-Nisa, 4: 130

If the husband is poor, his wife must be patient. It is stated in the verse: **“Let a man of wealth spend from his wealth, and he whose provision is restricted - let him spend from what Allah has given him. Allah does not charge a soul except [according to] what He has given it. Allah will bring about, after hardship, ease.”**⁹⁷ However if the husband is unable to provide any kind of livelihood, his wife can file for divorce.

97. Al-Talaq, 65: 7

6-) When the husband flees the home: Divorce may be an option when the husband flees the home and the wife experiences hardship because of this reason. When Umar (ra) was the caliph, he sent a document on the topic of men who live apart from their spouses, ordering them to either provide their wives’ nafaqa or to divorce them.

L. THE TYPES OF DIVORCE

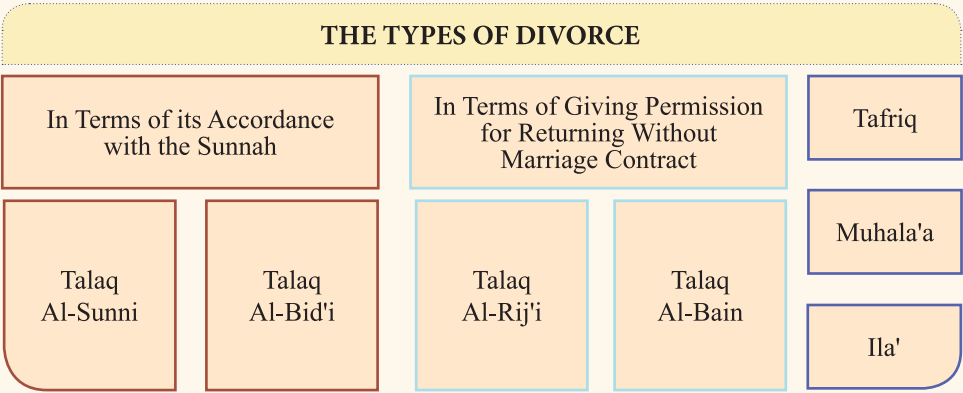
The married man has the right to divorce his spouse twice (utterances of the desire to divorce), but with the third divorce (utterance) they will have completely and officially separated: **“Divorce may be pronounced twice, and then a woman must be retained in honor or allowed to go with kindness.”**⁹⁸

There are many reasons as to why the right of divorce has been given to the husband in Islam. Some of these reasons are that the woman is considered to be more emotional than the man so she may not always have clear judgment. Men, who pays his spouse the dowry and provides her sustenance, may usually evaluate circumstances

more realistically. This right has also been given to him so that wife’s obedience towards the husband can be ensured. Precautions, however, have been set so that this authority is not misused.

It is possible and lawful for the husband to leave the authority of divorce to his spouse either during the marriage ceremony or sometime after the marriage. This is called **“tafwiz al-talaq.”** A certain period of time can be set when giving the authority of divorce to the woman such as “if you please, you may divorce me within ten days,” or the authority of divorce can be given for an unlimited period of time such as “you may divorce me, whenever you like.” In this case, the woman possesses the power to divorce her husband at a time whenever she wants.

98. Al-Baqarah, 2: 229



I. DIVORCES THAT ARE AND ARE NOT IN ACCORDANCE WITH THE SUNNAH OF THE PROPHET

Divorce can be classified in two groups: Sunni and bid'i divorce. These are based on whether or not it is in accordance with the principles set forth in the Qur'an and the Sunnah of the Prophet.

A) TALAQ AL-SUNNI (Divorces carried out in accordance with the Sunnah): The divorce that is in accordance with the Sunnah is for the man to not divorce the wife while she is menstruating and for him to not engage in sexual intercourse with her within this period of time. The husband should divorce his wife once (one utterance of divorce) and then he should wait till her iddah (waiting) period ends.

B) TALAQ AL-BID'I (Divorce that is not in accordance with the Sunnah of the Prophet): Examples for the bid'i talaq; to divorce the woman whilst she is menstruating, to divorce her once after sexual engagement and pronouncing to divorce her more than one utterance of divorce at once. These types of divorces are considered to be valid despite the fact they are not in accordance with the Sunnah.

II. DIVORCES THAT DO AND DON'T GIVE PERMISSION FOR RETURNING WITHOUT A NEW MARRIAGE CONTRACT

Divorce can be classified into two groups according to whether they mean definite separation or not; rij'i (allowing to return during the waiting period) and bain (which creates definite separation) divorce.

A) TALAQ AL-RIJ'I (Divorce that allows returning throughout the iddah (waiting) period): This gives the husband the chance to revoke the divorce and return to his wife without the need for a new marriage contract. This rule is valid up until the end of the iddah period. This type of divorce is called "rij'i divorce".

Below are the provisions arising from a rij'i divorce:

a) The tie of marriage continues until the end of the iddah period. It is lawful for a woman who has divorced with the rij'i talaq to reside in the same house as her husband. The spouses do not

have to be wary of covering themselves up. In fact it is considered pleasant within this time period for the woman to try and beautify herself in order to ensure the continuation of the marriage.

b) Even if the divorced woman approves or does not approve, this type of divorce gives the regretful husband the right to return to his spouse without the need for a new marriage agreement. In the rij'i talaq, if the husband does not return to the spouse up until the end of her iddah period which requires her to see three menstruation cycles, the divorce will automatically turn into a bain divorce (definite separation).

c) After the rij'i talaq, if one of the spouses happens to decease while the woman is waiting for her iddah period to end, then the living spouse will be the heir to the other.

d) The number of utterances of divorces that are allowed to be used will decrease. For example, if the husband divorces his spouse with two rij'i talaqs, he will only have one more right left to divorce her.

Because Islam desires the continuation of marriages and not for the family nest to be destroyed and scattered, it has taken precautions to ensure that this goal is made possible. In the case of the rij'i divorce, no limitation whatsoever is placed on the financial and civil rights of the spouses. With the rij'i divorce, the regretful spouses will have gained the opportunity to continue their family life as if nothing ever happened when they reconcile within the iddah time period.

B) TALAQ AL-BAIN (Divorce that ends the marriage definitely): The "bain divorce" takes place when the marriage comes to an end during the process of divorce and it does not allow for the possibility of the continuation of the marriage without there being a new marriage agreement. In the bain divorce, it is not lawful for the husband to have physical contact with his wife within the iddah time period, because the tie of marriage no longer exists between them.

The following are the rulings of the bain divorce:

a) The marriage immediately ends with this divorce. The woman can not be in the presence of her husband without being fully covered.

b) The woman may reside in a section of her husband's house until the end of the iddah period, if she is pregnant she may benefit from the nafaqa, if she is not she can not benefit from it.

c) The spouses can not be heirs to one another.

Baynunat al-kubra (the most definite separation) is the third utterance of divorce that terminates the husband's power of divorce over the woman. With this divorce it will not be possible for the spouses to remarry each other without hulla. The definite separation takes place when the woman who has already been divorced twice is divorced for the third time. It does not make a difference if the previous divorces were rij'i or bain.

Intention is important in the divorce. Thus according to what Ahmad b. Hanbal related from Ibn Abbas (r.a), Ruqane b. Abdi Yazid divorced his wife three times at one assembly and later he was very saddened by what he had done. When the Prophet (p.b.u.h) asked him in which way he divorced his wife he said; "I divorced her three times." To the question of whether or not it was in one assembly he replied "yes." After this when he said "I swear by Allah with this I intended to divorce her only once," the Messenger of Allah said; "It was just one divorce, if you please you may return to your wife." So Rukane went back and returned to his wife.⁹⁹

Divorces that are uttered more than three times are accepted as three talaqs. One man had come to Ibn Abbas and asked; "I divorced my wife with one hundred talaqs, what do I need to do?" to this he answered as follows: "Your spouse has been divorced from you three times and you are considered to have made fun of Allah's verses with the other ninety seven divorces."¹⁰⁰

III. THE TERMINATION OF THE MARRIAGE WITH THE DECISION OF THE JUDGE(TAFRIQ)

According to Islamic law spouses may appeal to the court. If the judge finds it necessary he may end the marriage. The conditions for which it is possible to appeal to a court are as follows:

a) The husband not providing the nafaqa or mistreating his wife.

b) If the husband is missing or is imprisoned for many years; if the husband has a sexual impotency that greatly effects sexual engagement; if there is a difference of religion that prevents the continuation of the marriage between the spouses.

c) The mahr being less than the standard mahr or the objection of the guardian on the matter of existence of equality between the couple; the girl and boy who were married when they were children using their right to choose when they hit puberty; the mentally ill person appealing to a judge for a divorce when he/she gets better.

d) The spouse informing the judge and requesting a divorce when the other spouse salaciously kisses, embraces, or carries out any other similar action with a person to whom he/she can get married.

e) When one of the spouses says the other committed fornication but can not prove it with four witnesses. Because of this, the mutual swearing and cursing is carried out before a judge in the court. With this, the spouse requests a divorce from the other spouse he/she believes to have committed fornication. This method is called lian (mutual cursing).

IV. THE WOMAN'S ABILITY TO DIVORCE IN EXCHANGE FOR COMPENSATION SHE GIVES (MUHALA'A)

Muhala'a means the divorce request of the woman in return for monetary compensation when the two spouses mutually decide to put an end to their marriage. The method of muhala'a is taken into consideration when the marriage becomes unbearable for the woman. When the woman wants a divorce but the husband does not divorce her for various reasons, the woman may make a deal with her husband in exchange for him divorcing her. In this deal, the woman may give up her mahr or she may give the husband some kind of monetary compensation. The husband may make a muhala'a deal with the wife such as holding her responsible for the maintenance and expenditures of the children up until a certain age.

99. Ahmad b. Hanbal, Musnad, I; Abu Dawud, Talaq, 10

100. Malik, Muwatta', Talaq, 1

Divorce by way of muhala'a is considered to be a bain (definite) talaq.

V. DIVORCE BY VOWING NOT TO COME CLOSE TO THE WIFE FOR FOUR MONTHS OR MORE (ILA)

Ila means that the husband vows not to come near his wife for a period of about four months or more and setting it to a very hard condition if he breaks his promise. It is stated in the verse: **“Those that renounce their wives on oath must wait four months. If they change their minds, Allah is Forgiving and Merciful; but if they decide to divorce them, know that Allah hears all and knowsall.”**¹⁰¹

In the case of Ila, it is encouraged for the spouses to return to one another and continue their marriage: **“If they return to their spouses-then indeed, Allah is very Forgiving and Merciful.”**¹⁰² Aisha has said: *“Allah’s Messenger made ila to his spouses and he turned what is halal for him into a haram. Afterwards he turned what is haram for him into a halal and he gave atonement due to this vow he had made.”*¹⁰³

If atonement is given after the process of ila and the divorce is revoked, then one of the rights of divorce decreases.

The time period of ila starts with the vow of the

husband not to come close to his wife. The ila' will start when words such as the following are spoken: **“If I come in contact with you, I will cut a ram.”** If the husband does not return to his spouse even though it has been four months, it will be ordered to him by the courts to give his final decision. If the husband fails to do so, the court ends the marriage.

THE SPECIAL CIRCUMSTANCES OF DIVORCE:

THE WITNESS IN DIVORCE: It is stated in the Qur'an: **“When their (your divorced spouses) waiting term is ended, either keep them honorably or part with them in honor. Call to witness two honest men among you.”**¹⁰⁴

UNSERIOUS DIVORCE: Like marriage, divorce is also a serious matter that directly affects a person's life. It should not be taken lightly. Even if it were a joke, words such as “I divorced you” should not be spoken to the wife, who is an emotional being by nature. It is stated in the following hadith related by Abu Hurayra: *“There are three things that should be taken seriously, even its joke should be taken seriously. Marriage, divorce, and returning to the spouse in the rij'i divorce.”*¹⁰⁵ A divorce will not take place when words are pronounced incorrectly due to a slip of the tongue to sound like a divorce is wanted.

101. Al-Baqarah, 2: 226

102. Al-Baqarah, 2: 226

103. Bukhari, Talaq, 21

104. Al-Talaq, 65: 2

105. Abu Dawud, Talaq, 9

M. IDDAH AND ITS CONDITIONS



Iddah is the period of time a woman must wait when her marriage comes to an end in order for her to be able to marry again. The limit of the period of time she must wait has been determined by the Sharia. The length of time of the iddah varies from case to case:

A-) The iddah in the case of the husband's death: If the woman is not pregnant her iddah is four months and ten days.

B-) The iddah of the pregnant woman: Allah The Almighty states: **“And for those who are pregnant, their term (iddah) is until they give**

birth.¹⁰⁶ Haris' daughter Subay'a (r.anha), one of the Companions, lost her husband when she was pregnant and she gave birth ten days after his death. The Prophet informed her that her iddah was over and she was allowed to get married if she pleased.¹⁰⁷

C-) The iddah of the divorced woman: The iddah for a divorcee is actualized within about three months. It is stated in the Qur'an: **"Divorced women must wait, keeping themselves from men, three menstrual courses."**¹⁰⁸ Quru' means the clean days of the divorced woman, in other words the days of the month when she is not menstruating. According to this, if a woman is divorced in one of the days that she is clean, the term in which she is divorced will be counted as the first one of the three quru' terms. And her iddah period will finish at the end of her third clean term. If divorce takes place before the consummation of the marriage, the woman does not need to wait for the iddah.

D-) The iddah of elderly women: The iddah for women who no longer menstruate is considered to be three months.

E-) The iddah of women who cannot menstruate: The period of time that must be waited for the woman who cannot menstruate even though she is at an age menstruation is nine months, if she does not menstruate within this time frame then she must wait three months.

F-) The iddah for a woman whose husband has gone missing: Four years should be waited for the missing husband. After this period, she needs to wait four months and ten days in order to remarry. If

the husband is lost at war and he does not return for a year after the soldiers who participated in the war return to their homes, then with the appeal of the spouse, the judge will terminate the marriage. If the lost person comes back after the woman has already remarried, the second marriage cannot be annulled.

The rights and responsibilities of the woman waiting for iddah:

A-) The right of nafaqa: The woman who is divorced with the rij'i talaq has the right to have her nafaqa needs provided such as food and clothing throughout the iddah period.

B-) Residential security: When the woman is divorced with a rij'i or bain talaq she has the right to reside in her husband's home throughout the iddah period.

C-) The limitation on the freedom of travelling: It is seen as reprehensible for a woman waiting for the iddah to beautify herself and go out. The woman waiting for the iddah can leave the house out of necessity. There is no harm for the widowed woman to go out during the day in order to maintain her livelihood. However she should not spend the night elsewhere.

D-) The prohibition of getting married and engaged: It is not lawful for the widowed or divorced woman to get engaged or married during the term of her iddah. This circumstance is the same whether it is a rij'i or a bain divorce. It is stated in the verse: **"And do not determine to undertake a marriage contract until the decreed period reaches its end"**.¹⁰⁹

106. Al-Talaq, 65: 4

107. Bukhari, Talaq, 39

108. Al-Baqarah, 2: 228

109. Al-Baqarah, 2: 235

N. UNDERTAKING THE RESPONSIBILITY OF UPBRINGING THE CHILDREN (HIDANAH)

Hidanah is to take care of a person who needs to be taken care of. The aim of hidanah is to protect the person who cannot look after himself/herself, and to give the responsibility of the task of caring

and raising that person to a particular individual. Even if they are divorced, the spouses have the right to see their children and this right cannot be violated by either of the spouses.

There is a consensus among Muslim scholars that the person who is most deserving of the right to undertake the responsibility of caring for and raising the child is the mother. A woman came up to the Messenger of Allah and said: O Messenger of Allah! This is my son. My belly was a vessel, my breast was a source of sustenance, and my lap has been a warm home for him. Now his father has divorced me and wants to take him away from me. The Prophet - peace be upon him - stated as follows: *“So long as you do not marry someone else, you are the one who has the most rights over the child.”*¹¹⁰

If the widowed mother is breastfeeding and continuing to care for her child after the iddah term

is over she may claim breastfeeding and care taking payments from her husband. She may also receive nafaqa from the husband so that she may be able to meet the child's eating, drinking, clothing, and cleaning needs.

If there are close female relatives who can take on the task of hidanah, this right will be theirs. If the child has no mother or if the mother is not eligible for the right of hidanah, this right will be passed to the mother's mother and then the child's aunty. After this, the right of hidanah will be passed on to the father's mother, then to the child's sister and then the father's sister.

110. Abu Dawud, Talaq, 35





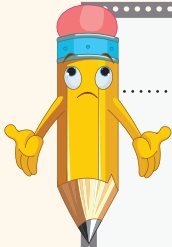
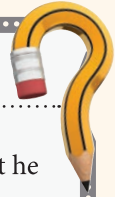
EVALUATION ACTIVITIES

1. Explain the place and importance of the family in society.
2. Make a list of the benefits of marriage.
3. Explain the importance of the child's education in the family.
4. Give four examples for the verses and the sayings of the Prophet about marriage.
5. What are the conditions required for a marriage contract to be considered valid?
6. Who is prohibited for a man or a woman to get married?
7. What are the rights and responsibilities that arise from marriage? Explain.
8. Give information about the mahr.
9. Why has the responsibility of the nafaqa been given to the man?
10. How many types of divorce are there?
11. What does iddah mean? Explain.
12. Who can the right of hidanah be given to? Why?

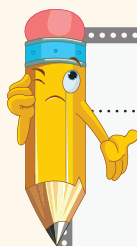


MATCH THE PAIRS

1	Rij'i talaq	<i>The divorce in which the marriage cannot be continued without a new marriage contract</i>
2	Bid'i talaq	<i>Divorce carried out in accordance with the Sunnah</i>
3	Talaq-e tafviz	<i>Type of divorce that allows for the return of spouses without a new marriage contract</i>
4	Bain talaq	<i>Giving the power of divorce to the woman in the marriage</i>
5	Sunni talaq	<i>Divorce that is not carried out in accordance with the Sunnah</i>

**TRUE-FALSE QUESTIONS**

1. () Islam has given permission to a man to marry up to four wives provided that he treat them all fairly. However Islam encourages monogamous marriage.
2. () Because the man is considered an authority figure in home, he cannot joke around and play with his wife like a friend.
3. () Every child is born with the nature of Islam.
4. () Marriage is a source of spiritual rewards because it is a way of taking care of sexual desires through permissible ways.
5. () It is lawful for a boy and a girl who will marry to go out and wander around with each other.
6. () It is prohibited for a believer to marry his/her adopted child.
7. () A man can marry his deceased wife's daughter whom she had from a previous marriage.
8. () Kinship through milk is established with two women's witnessing.
9. () A person is allowed to marry the siblings of the husband of the foster mother
10. () A Muslim man and woman cannot marry to polytheists.
11. () Because a sinning man with poor moral values is not considered equal to a virtuous and chaste woman, the guardians may prevent the marriage from happening.
12. () It is allowed for a man and woman to perform the mut'a marriage in order to marry for a determined period of time. There are no objections to this in Islam.
13. () In order to carry out a valid marriage, the man and woman must show that they accept the marriage and they should announce the marriage in the presence of witnesses during the marriage ceremony.
14. () The maximum amount of the mahr is 200 dirham.
15. () The woman must get permission of her husband in order to perform super-erogatory fasting.



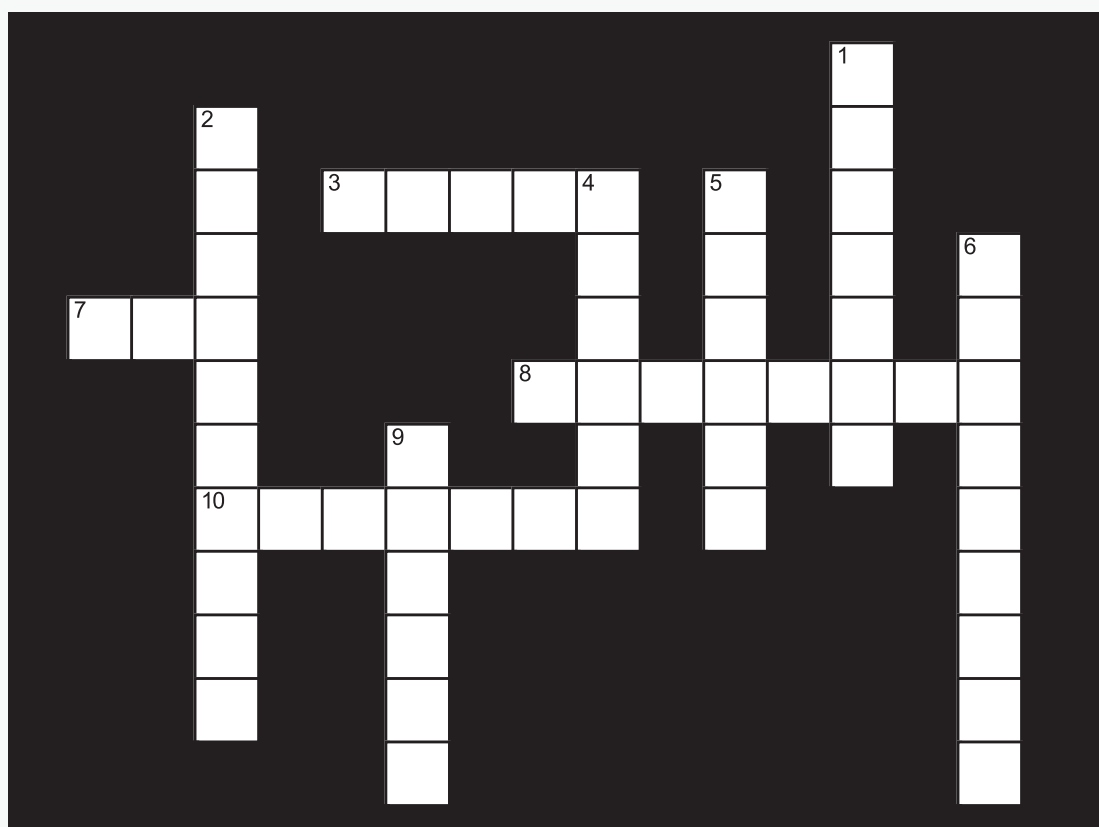
MULTIPLE CHOICE QUESTIONS -1

1. Which of the sentences below gives correct information about marriage?
 - A) A Muslim man may marry a polytheist woman.
 - B) A Muslim man may marry a woman from the People of the Scripture
 - C) A Muslim woman may marry a polytheist man
 - D) A Muslim woman may marry a man from the People of the Scripture
2. To the question who is the most worthy of the best of your time and the best of your behavior, what response did the Messenger of Allah give?
 - A) Your children
 - B) Your father
 - C) Your spouse
 - D) Your mother
3. What is considered to be the best inheritance that a father could leave behind?
 - A) House, car
 - B) The state
 - C) Good moral values
 - D) Contentment
4. In a saying of the Prophet it is stated that when someone dies, their book of deeds will be closed but it will remain open about three matters. Of the options below which one is not one of these three matters?
 - A) Education that is benefited from
 - B) Continuous Charity (Sadaqa jariya)
 - C) A virtuous child
 - D) An arrangement made at the grave
5. What is appropriate for engaged prospective spouses to do?
 - A) To hold hands, go out, and wander around together
 - B) Look at each other's faces and hands
 - C) Stay alone with each other where there is no one around
 - D) To embrace one another in romantic places
6. To which one of the following can a woman marry?
 - A) Her sister's son
 - B) Her Step son
 - C) Her Father in law
 - D) A married man

**MULTIPLE CHOICE QUESTIONS -2**

7. For kinship through milk to arise, the milk must be sucked from the foster mother at a certain age and a certain amount of milk must be consumed. Of the options below, which one is considered to be sufficient for kinship through milk to arise?
- A) When the milk is sucked within the first 2 years and it should be sucked till the baby is full at least once
 - B) Within the first year and it should be sucked enough to fill the baby at least five times
 - C) Within the first 2 years and it should be sucked five times without the condition of filling the baby's stomach
 - D) Within the first year and the milk should be sucked once without the condition of filling the baby's stomach
8. Of the options below which one is not a temporary impediment to marriage?
- A) Marriage impediment linked to the iddah
 - B) The impediment that arises from the woman being married to someone else
 - C) The impediment that arises from divorcing three times
 - D) The impediment that arises from being related
9. In marriage the guardians and the woman possess certain rights. Which of the options below has given incorrect information about the rights of wife and the guardians?
- A) It is not deemed appropriate for a woman to marry without the permission of the guardians
 - B) The guardian may force the woman to marry
 - C) The widowed woman may marry without the presence of her guardian
 - D) It may be an impediment to marriage when the prospective husband is not equal to the woman
10. Which type of marriage is permitted according to Islamic law?
- A) Formal marriage
 - B) Mut'a marriage
 - C) Arranged hulla marriage
 - D) Shigar marriage
11. What does the woman get when the marriage ends before it is consummated?
- A) Complete dowry
 - B) Half dowry
 - C) Mut'a (consolation gift)
 - D) She cannot get any dowry

CROSSWORDS



- 3. The term used for the period that a woman needs to wait before getting married again
 7. The term used for the vows of a husband stating that he was not going to have intercourse with his wife for a period of four months or more
 8. A man and woman's agreement to establish a family.
 10. The term used for ending marriage with the wife's request by paying her husband some money

↓

 1. The term used for everything that needs for the livelihood
 2. The first step taken before the marriage of two loving couple
 4. The term used for the responsibility of nursing and raising a child
 5. The term used for ending marriage with the verdict of a judge
 6. To accept and fulfill an order
 9. The term used for the parity between the marrying couples in order to ensure their harmony

CHAPTER 4

ECONOMIC LIFE IN ISLAM

CONTENTS

- A. THE IMPORTANCE THAT ISLAM PLACES UPON LABOR AND TRADE
- B. THE RELIGIOUS DIMENSIONS OF OBTAINING SUSTENANCE
- C. THE RIGHTS AND RESPONSIBILITIES OF WORKERS
- D. THINGS PROHIBITED IN TRADING



PREPARATORY WORKS

1. What do you understand from the term trade ethics? Examine the sections concerning our Prophet's trade ethics from Siyar books.
2. Read the verses that are associated with the subject of trade in the Qur'an.
3. Visit a trading company located in the city that you are residing in and gather information about that company and the way it operates.
4. Is there any limit for how much one can profit in Islam? Learn.
5. What kind of harms can carrying out trade with the ambition of making limitless profit to the individual and society? Ask it to tradesmen. Research this.
6. In our present day, what are the mistakes that people make in trading? According to Islam, which commodities cannot be bought or sold? Research.
7. What kind of outcomes will there be in our globalized world, when deceit and fraud is mixed in buying and selling? Argue.
8. What would you do with something you have found? Argue

A. THE IMPORTANCE ISLAM PLACES UPON LABOR AND TRADE



The religion of Islam has advised individuals to work and gain the necessities of life in a way that is most befitting to their means and capabilities and also to spend their money according to their needs.

Allah the Almighty has stated, **“It is He (Allah) who made the earth subservient to you (made the earth obey you so that you may benefit from it). Walk about its regions (mountains, hills and plains) and eat of His provisions.”**¹ What is meant by “walking about the earth’s regions” is to reveal the blessings which are beneficial to humans and to look for ways to achieve this goal.

According to Islamic law, it is ‘obligatory (fard)’ for a Muslim to ensure the livelihood (nafaqa) of both himself and his family. It is also obligatory for him to make enough money in order to pay off his debts. Also, it is ‘recommended (mustahab)’ to earn money with the intention of meeting the needs of destitute Muslims and helping the relatives by giving them money. It is considered ‘permissible (mubah)’ to earn more than what is needed in order to enjoy a pleasant and prosperous life. It is considered ‘prohibited (haram)’ to earn money, even if these earnings are acquired through permissible ways, in order to act show off towards others and to get

caught up in worldly ambition in an attempt to compete with someone else’s prosperity. It is also prohibited to earn money in order to act depravedly and excessively with these earnings. In contrast to this, to participate financially in the struggle against disbelief and to work a lot and earn money with the sincere intent of spending in the path of Allah is considered to be a pleasant act of worship. The person who works and earns money with this aim is considered to be in a continuous state of worship.

According to the religion of Islam, manual labor is the primary and natural way of earning a living. The Messenger of Allah - *peace be upon him* - stated when encouraging manual labor and artisanship: *“No one has ever consumed something more virtuous than what is earned through their manual labor.”*²

When the question of which earning is most superior was asked to The Prophet Muhammad - *peace be upon him* - he responded: *“A person’s manual labor and trade that is carried out honestly.”*³

Sitting around aimlessly without working is something that is highly disapproved of in our religion. Allah’s Messenger – *peace be upon him*

1. Al-Mulk, 67: 15

2. Ibn Majah, Tijarah, 1, Bukhari, Buyu’, 15

3. Ahmad b. Hanbal, *Musnad*, III, 466

– stated: “Allah loves the believing craftsman who carries out manual labor.”⁴

It has been stated in another hadith: “Even if it is that you take from your bucket of water and pour it into your brother’s bucket and even if it is speaking with your Muslim brother with a smile on your face, do not trivialize anything of goodness. Be it a kind, polite and right word, job or action (if you can do it, do not waste a moment and do it!)”⁵

Islam has forbidden people who have the ability to work and earn money from begging for money. The Prophet Muhammad – *peace be upon him* – expressed that: “I swear by Allah that it is better for anyone of you to take a rope (and cut) and bring a bundle of wood (from the forest) over his back and sell it in order to ensure his own maintenance and his family’s, rather than to ask the people who may give it (financial assistance) to him or not. You never know, if the person you ask for help from gives it, you will be indebted to them. If they do not, you will be humiliated.”⁶

Trade is exchanging a valuable commodity in return for another valuable commodity or for money. The ultimate aim of trade in our religion is not making money for whatever it takes, it is to serve people by supplying them with the beneficial things they need. By means of this, it is to make a normal and lawful earning.

The Qur’an mentions these qualities that are needed to be found in trade in this way; **“O you who have believed, do not consume one another’s wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful. And whoever does that in aggression and injustice - then We will drive him into a Fire. And that, for Allah, is [always] easy.”**⁷

Allah’s Messenger himself carried out trade, was indebted, gave mortgage and was involved in a business partnership. In this way, he taught his companions how to carry out trade in a halal way by showing them this in practice.

4. Munawi, Fayd al-Qadir, II/290

5. Abu Dawud, Libas

6. Bukhari, Musakat, 13, Zakat, 50, Buyu: 15; Ibn Majah, Zakat: 25; Ibn Hanbal, *Musnad*, I, 167

7. Al-Nisa, 4: 29-30

INFORMATION BOX

The following qualities must be found in a legitimate trade:

- 1) The compliance of the buyer and seller,
- 2) Mutual good intentions and honesty,
- 3) The trade should not give harm to any of the parties involved in the transaction or to other people.

Reading Text

CALLOUSED HANDS



It was the ninth year of the migration and our Prophet was returning from the expedition he made to Byzantine.

The Muslims of Medina had gone all the way out of the city in order to welcome the Muslim army. Everyone was in a positive mood and there was a feeling of Eid in the air. Amongst the people who went out to welcome our Prophet and the Muslim army was the great companion Muadh b. Jabal. Muadh could not participate in the battle of Tabuk because of a disability he had.

Allah's Messenger had shaken each and every one of the hands of the Muslims who had come to greet him. He accepted all of their well wishes. During this time he also shook the hand of Muadh. However Muadh's hands were different than all the others; they were hardened and calloused. Our Prophet could not hold himself from asking:

- O Muadh why are your hands hardened? How did this coarseness and these calluses happen?

Muadh had thought that the hardness of his hands made our Prophet uncomfortable. He started to explain the state of his hands in an apologetic manner.

- O Messenger of Allah! I am working hard to earn the sustenance of my children and to ensure their nafaqa. A saw, chipping hatchet, pickaxe, shovel, and hammer can always be found in my hands. This is why they have hardened and become calloused.

Upon these words, our Beloved Prophet who was sent to the universe as Mercy, kissed the forehead of Muadh and said:

- Fire will not come into contact with these hands. The fire of Hell in the Hereafter will not touch these hands.

This incident offers great news for the Muslim workers who place importance in earning a permissible sustenance and who struggle to ensure the sustenance of their families.

The only condition required to be the receiver of this good news is to abide by Allah's commands, carry out the obligatory act of worship, and to abstain the things he has prohibited to us. In this way, actions that are carried out in this world will be in accordance with Allah's contentedness and will therefore bring the spiritual rewards of an act of worship.

This Prophetic saying makes clear how great an act of worship it is in the presence of Allah to try and work in order to earn a permissible sustenance and to ensure the sustenance of the family:

"There are some among the sins that cannot be made up by offering prayers, fasting, performing the major or minor pilgrimage. The only thing that can be considered as atonement is facing struggles and experiencing hardship whilst trying to earn a living."

B. THE RELIGIOUS DIMENSIONS OF OBTAINING SUSTENANCE

Working in order to earn the necessities of life is encouraged in Islam, but certain limits have been set when trying to acquire it. It is considered prohibited to trade things that have been made forbidden to use in Islam such as, alcohol, drugs, pork, idols, obscene items, and paintings.

A Muslim who is striving to ensure his/her sustenance must generally know the rulings that Islam has set forth in regards to the life of trade. It is obligatory for all Muslims to have a general knowledge of these rulings to be able to carry out transactions of buying and selling in a way that is compliant with the approval of Allah. To be a conscious Muslim on this topic, these factors regarding the obtaining of sustenance must never be forgotten:

1- Attention should be paid in acquiring earnings through permissible ways.

Islam considers it important to acquire earnings and property through permissible ways. It has forbidden earnings that are acquired by way of deceit, making false statements, enforcement, black-marketeering, benefiting from the hardships of the other party of the transaction, ambiguity, and exploiting risks. Interest, which means the profit of the capital without sharing the risks and labor, has been prohibited in Islam. The main ways of obtaining an unjust earning are through theft, extortion, bribery, misleading people on the matter of measuring and weighing, and gambling. Making an earning in such ways has also been prohibited in Islam. It has also been forbidden to profit from encouraging others into committing prohibited actions, such as selling alcohol and therefore encouraging its consumption.

Our Beloved Prophet has called attention to the importance of a permissible earning saying: *"O people, Allah is Good and He therefore, accepts only that which is good. And Allah commanded the believers as He commanded the Messengers by saying: "O Messengers, eat of the good things, and do good deeds; verily I am aware of what you do"*

*(23: 51). And He said: "O those who believe, eat of the good things that We gave you" (2: 172) He then made a mention of a person who travels widely, his hair disheveled and covered with dust. He lifts his hand towards the sky (and thus makes the supplication): "O Lord, O Lord," whereas his diet is unlawful, his drink is unlawful, and his clothes are unlawful, and his nourishment is unlawful. How can then his supplication be accepted?"*⁸

*"There is going to be a time when humankind will not mind if the thing he has gotten is permissible or prohibited. The supplication of such people will not be accepted."*⁹

Muslims are required to ensure their own sustenance and that of their family members. While they are trying to earn their sustenance, they should be careful of what is permissible and prohibited and watch the boundaries drawn by Allah the Almighty. The following words of Abu Bakr explain the Muslim's obtaining of sustenance and their understanding of trade in the best way: "Only Hell fire is befitting to a body that has been nourished by haram."

2- It should not be forgotten that Allah is the One who provides the sustenance and that there is no need to worry about it.

Another name of Allah the Almighty is Razzaq, which means that He is the One who distributes His blessings amongst his creation; He is the One who gives more to whom he wishes and less to whom He wishes. Allah the Almighty has predetermined and divided the sustenance of every living being even before the beginning of time.

Our Lord, who has sent us to this world in order to test us, states this matter in the Qur'an as follows: **"And if it were not that the people would become one community [of disbelievers], We would have made for those who disbelieve in the Most Merciful - for their houses - ceilings and stairways of silver upon which to mount. And for their**

8. Muslim, Zakat, 65

9. Muslim, Zakat, 65



houses - doors and couches [of silver] upon which to recline.”¹⁰

“And if Allah had extended [excessively] provision for His servants, they would have committed tyranny throughout the earth. But He sends [it] down in an amount which He wills. Indeed He is, of His servants, Acquainted and Seeing.”¹¹

“Do they distribute the mercy of your Lord? It is We who have apportioned among them their livelihood in the life of this world and have raised some of them above others in degrees [of rank] that they may make use of one another for service. But the mercy of your Lord is better than whatever they accumulate.”¹²

3- Working should not be an obstacle to prayer.

Being overly ambitious on the matter of accumulating wealth has been disapproved in Islam. When acquiring and managing goods and property, it should not prevent the owner of the property from performing his/her prayer and from obeying the commands and prohibitions of Allah. Otherwise the greatest loss will be incurred in this world and the Hereafter. It is stated in the Qur'an:

“O you who believe, let not your wealth and your children divert you from the remembrance

of Allah. And whoever does that - then those are the losers (spiritually and financially).”¹³

“Your wealth and your children are but a trial, and Allah has with Him a great reward.”¹⁴

Some people are overly attached to this world. Therefore all of their ideals, desires are all just for this world and the things they take pleasure in are once again benefits of this world. Because of their devotion to this world, they like to live as if the life in this world will never come to an end.

4- One should strive to find a good and suitable job to ensure the sustenance.

All occupations are different than one another. The best thing to do is to prefer an occupation that is most appropriately fitted to the person's nature. However when in the process of choosing an occupation, one should be sure that it is lawful in Islam.

Every occupation, trade, and industry that Muslims are in need of is considered to be obligatory upon every believer individually. Also Islam does not encourage all people to choose just one occupation. For example, although our Prophet (p.b.u.h.) encouraged working in agriculture, he also brought attention to the danger of engaging in just that sector and thus neglecting other occupations and sectors. He stated that: **“If you deal in usury and hang onto the tails of cows, if you become satisfied with cultivation and cease to take part in Jihad, Allah will inflict a humiliation upon you which will not be removed until you return to your religion.”¹⁵**

Islam has forbidden all crafts and occupations that are harmful to the community's beliefs and customs. It has declared earning money through such ways prohibited. Some of the branches of occupations and crafts that Islam considers haram are as follows:

➤ **Jobs that arouse sexual feelings:** In Islam, limits have been set concerning the relationship between man and woman. For instance, it has been forbidden to earn a living by becoming a secretary,

10. Al-Zukhruf, 43: 33-34

11. Al-Shu'ara, 26: 27

12. Al-Zukhruf, 43: 32

13. Al-Munafiqun, 63: 9

14. Al-Taghabun, 64: 15

15. Abu Dawud, Buyu, 56

in where there is a possibility of being alone in a room with the opposite sex, and also by massaging the opposite sex. Even if performances that arouse sexual feelings such as dance, ballet and obscene plays are accepted in the world of art, they are not considered permissible in Islam. Jobs such as singing, photo modeling and modeling are not approved in Islam.

➤ Jobs whose subject and purpose is prohibited: Amongst these jobs are operating a casino, sculpturing, painting, and photography based on capturing obscene photos. Because Islam is against polytheism, it does not give consent for the carrying out a job that leads to polytheism. For example, it is not lawful to participate in the making of a painting or sculpture that is considered to be obscene or that can lead to polytheism.

➤ Jobs that are involved in the production and selling of intoxicating substances: Islam has forbidden the production, trade, transportation, and selling of alcohol and drugs. It has also forbidden Muslims from working in places where alcohol is sold.

➤ Jobs that cause for an entirely haram earning: Deeds such as theft, brigandage, loan-sharking, extortion, and creating an environment of terror cannot be accepted as permissible jobs and nor can they be carried out in Islam.



Reading Text

PERMISSIBLE GOODS THAT BELONG TO A PIOUS PERSON

Once Imam Abu Hanifa asked the price of a piece of silk clothing to a woman who was selling it. When the woman said: "O Imam, it is one hundred dirham!" he objected to this and said: "No, this is worth more than that..." The woman who was surprised added an extra one hundred dirham to the price. Once again Imam objected to it. She increased the price to an extra one hundred dirham, then one hundred more.... When Imam said: "No, this is worth more than four hundred dirham" the woman could not hold herself from saying: "O Imam, are you making a fool of me?"

Upon this Imam Abu Hanifa called for someone who knew the actual price of the commodity in question. The person who came claimed that the price of the clothing was five hundred dirham so Imam Azam bought it from her for that price.

On another occasion, he sent his partner Hafs bin Abdurrahman to sell some goods, and said to him: "O Hafs! This good has such and such defects. This is why you should tell it to the customer in advance and sell it for a lower price!"

So Hafs sold the commodity for the price the Imam had specified but he had forgotten to tell



the customer about the defects it had. When Abu Hanifa learned of this situation, he asked Hafs: "Do you know the customer who bought it?"

When Hafs said that he did not know the customer, the Imam distributed all of the earnings made from that transaction as charity. Because he, in every way, lived in accordance with the truth that Allah's Messenger - peace be upon him - made clear: *"How pleasant are the nice goods in the hands of a pious person!"* and he acted with measures of fear from Allah when it came to the matters of permissible and forbidden.



EXAMINE

What type of punishments can be found in the laws in regards to varieties of sales that are not in accordance with the Islamic religion? Examine what the prohibition of interest does and does not encompass.

C. THE RIGHTS AND RESPONSIBILITIES OF WORKERS

a) The rights and responsibilities of the Employer:

The main responsibility of the employer is to pay the fee of the worker as it was decided in the contract. The Prophet Muhammad stated, *“Give the worker his pay before his sweat has dried.”* He has informed us that those who do not pay the workers’ rights will have to answer to Allah on the Day of Judgment.

The main responsibilities of the employer are to act kindly towards the workers and to recognize the workers’ basic rights and freedoms.

The responsibility of the employer to give the job to someone who is eligible for the work is also very important. The Prophet Muhammad has stated, *“The person who prefers and employs someone because of their closeness to him, when there is a person who is more capable and deserving of the job, betrays Allah, His Messenger and all Muslims.”*

b) The rights and responsibilities of the worker:

The worker is required to show the necessary attention and care when carrying out his job and also to work during the time of work and to fulfill his obligation, excluding those times he needs to fulfill his legitimate needs. Our Prophet has

stated, *“There is no doubt that Allah the Almighty would be very pleased when one of you carries out his/her job in the right way.”* It can be seen as stealing from the employer’s property when the worker engages in activities that contradicts the employer’s knowledge and orders during work hours and also when he does not work.

The worker is also responsible for the care and protection of tools, materials, and equipment that are given to him. He is responsible for compensating for the damages he causes the employer when he does not show the necessary care in carrying out his job and for the damage he causes due to his faulty and deliberate actions.

When we take into account the rights and responsibilities of both sides it can be seen that the relationship between the worker and employer should not be seen as different than other human relations. The rights of workers should not also be seen as different than other human rights. The object of general Islamic principles and purposes is not for a particular group of people to live in luxury or hardship, but it is for the benefit of society and for hardship to be shared together and in a fair way. These principles are very important in developing a strong bond between the worker and employer based on mutual respect, love, and justice.

D. THINGS PROHIBITED IN TRADING

I. Acquiring Goods through Prohibited Ways

Our Lord Almighty states in the following verse: **“O you who believe, do not consume one another’s wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful.”**¹⁶

Acquiring goods through prohibited methods is done in the following situations; taking bribes, committing theft, extorting someone else’s property, counterfeiting money, moving public property to one’s own private property.

Bribery is when an illegitimate ease is desired when carrying out a particular job. So goods or money are given to an authority figure so that this ease is made possible. It is forbidden and haram to give and take something and be of assistance when

16. Al-Nisa, 4: 29

it comes to actualizing such a purpose. This is because, bribery makes the just look unjust and the unjust seem just. In this way it prevents justice from taking place. It is stated in the Qur'an; **"And do not consume one another's wealth unjustly or send it [in bribery] to the rulers in order that [they might aid] you [to] consume a portion of the wealth of the people in sin, while you know [it is unlawful]."**¹⁷

Bribery will bring about negative results to society in the way that it does for people. Injustice will increase in a place that bribery is prevalent. There will no longer be security and trust. The social order will be destroyed. This is why our Prophet stated: *"Whoever takes or gives a bribe will be in Hell."*¹⁸

Theft is a sin that is considered to be one of the greater sins and one that should be prevented through serious punishments in the Qur'an: **"[As for] the thief, the male and the female, amputate their hands in recompense for what they committed as a deterrent [punishment] from Allah . And Allah is Exalted in Might and Wise."**¹⁹

Extorting, to forcibly take someone else's property from their hands is a sin.

If it is known what is needed to be done to take this haram earning out of one's possession, it should be done and it should be given to the actual owners, if the owners have deceased, it should be given to their heirs. If the way to get rid of this haram earning is not known and if the owners are impossible to find, it should be handed out as sadaqa to the poor in the name of the property owners. After this, one should repent and ask Allah, whose mercy and forgiveness is eternal, for forgiveness.

II. Making Sales that Lead to Haram

Selling the commodity before having it in your hands, selling something that does not exist, taking part in destructive competition by carrying out profiteering, monopolism and black-marketeering are all examples of sales that can lead to the implementation of haram actions.



A commodity should not be sold before it is in the hands of the person. Allah's Messenger states: *"Do not sell a piece of food you have bought until you actually have it in your hands."*²⁰

A commodity that does not exist should not be sold: Allah's Messenger has stated: *"Do not sell what is not next to you."*²¹

Profiteering should not be carried out. Profiteering is taking a commodity off the market in order to sell it, stocking it or not putting it on the market when its price has increased. Allah's Messenger states: *"One who brings goods to the bazaar is marzuk (given rizq), and one who engages in profiteering is cursed."*²²

III. Engaging In Trade With People Who Earn A Haram Living

The most important issue a Muslim who engages in trade should place importance in is refraining from selling items that have been rendered haram. If Allah has made something haram, he has also made the money earned off it haram as well.

It is haram to sell weapons to highway men. Because the thing that leads to the implementing of haram is also considered haram. It is stated in the Qur'an: **"And cooperate in righteousness and piety, but do not cooperate in sin and aggression."**²³

17. Al-Baqarah, 2: 188

18. Tirmidhi, Ahkam: 9; Abu Dawud, Akdiya, 4; Ibni Majah, Ahkam, 2

19. Al-Ma'idah, 5: 38

20. Bukhari, Buyu, 112

21. Abu Dawud, Buyu, 68

22. Ibn Majah, Ticarat, 6

23. Al-Ma'idah, 5: 2

A Muslim should avoid variations of productions and trade that will lead to prohibited actions and behavior and also make it possible for haram to become stronger and more prevalent. This is why the money paid to singers that help the development of an obscene environment is considered to be haram.

After the following verse prohibiting the consumption of alcohol was revealed; **“O you who have believed, indeed, intoxicants, gambling, [sacrificing on] stone alters [to other than Allah], and divining arrows are but defilement from the work of Satan, so avoid it that you may be successful.”**(Al-Ma'idah, 5: 90) our Prophet also banned the sale of alcohol and stated: *“There is no doubt that Allah has made alcohol prohibited. For the person who has alcohol near them at the time of learning of this verse, he should not drink nor sell it.”*²⁴ It is stated in another hadith: *“Allah the Almighty, who has made the consumption of it haram, has also made the sale of it haram.”*²⁵ Selling grapes to a place producing wine is also prohibited. *“The Prophet – peace be upon him - has cursed ten people on the matter of alcohol: The crusher (the one who produces it), the one for whom it has been crushed, the drinker, the transporter, the one for whom it has been transported, the one who has other people drink, the seller, the one who spends the money earned from it, the one who buys it and the one for whom it has bought...”*²⁶

A Muslim butcher's selling the meat of animal that was not slaughtered by mentioning or remembering Allah's name is an example for the similar situations. Because if Allah's name is not deliberately mentioned when an animal is being slaughtered, its meat is considered to be haram. Similarly, the sale of idols and similar items is forbidden in Islam.

It is also not lawful to sell or put a stolen item on the market. The Prophet Muhammad - peace be upon him - stated: *“Whoever knowingly buys a stolen item will be part of the sin that was committed and its lowness.”*²⁷ Therefore, a Muslim who engages

in trade must be careful of these matters when buying and selling a commodity.

IV. Consuming Interest (Riba)

The topics that should be best known about trading are the ones concerning interest. This is why detailed information will be provided below.

Usury (interest) was an important means of earning money that Arabs, especially those who were of a higher stature, benefited from. It was not appropriate to abolish it (interest) in one step. This is why the definite banning of interest took place with some of the last verses that were revealed in Islamic history. The condemnation of interest and the explanation of the disasters that past nations had faced for carrying out usurious transactions were, however, expressed in the early years of Islam.

The ruling about the prohibition of interest is expressed in the following verses which were revealed in the eighth or ninth years of the hijrah: **“O you who believe! Fear Allah and give up what remains [due to you] of interest, if you should be believers. And if you do not, then be informed of a war [against you] from Allah and His Messenger. But if you repent, you may have your principal - [thus] you do no wrong, nor are you wronged.”**²⁸

It is clearly expressed in the Qur'an that wanting an extra amount of money in return of a loan (riba) is prohibited: **“O you who believe! Do not consume usury, doubled and multiplied, but fear Allah that you may be successful.”**²⁹

As it is expressed in the Qur'an, when the interest was banned, the Arabs said that: **“Trade is [just] like interest.”**³⁰ Upon this, Allah the Almighty has made it clear that these two transactions are different from each other by the following answer: **“But Allah has permitted trade and has forbidden interest.”**³¹ and then He has stated: **“Those who consume interest cannot stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity.”**³²

24. Muslim, Musakat 67

25. Abu Dawud, Buyu: 64

26. Tirmidhi, Buyu 59

27. Bayhaqi, Sunan, V, 336

28. Al-Baqarah, 2: 278, 279

29. Ali Imran, 3: 130

30. Al-Baqarah, 2: 275

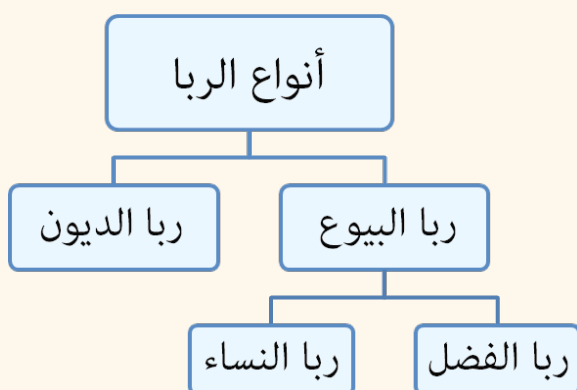
31. Al-Baqarah, 2: 275

32. Al-Baqarah, 2: 275

The Prophet Muhammad touched upon the application of the interest ban in his Farewell Sermon: *“Be careful, the usury of pre-Islamic period is abolished, and the first of our usury I abolish is that of ‘Abbas b. ‘Abd al-Muttalib, for it is all abolished.”*³³ *“Know that, all the types of interest that were prevalent in the time of the ignorance have been abolished. You shall have your capital sums, deal not unjustly and you shall not be dealt with unjustly.”*³⁴

Types of Usury (Riba) in Islam:

The interest that Islam has banned in the



practice of trade can be divided into two: Usury of surplus (ribā al-fadl) and usury in return for delay (riba al-nasia).

1) Usury of surplus: This type of interest occurs when foodstuffs that can be preserved such as wheat, barley, and similar substances are exchanged upfront for their own kind, but in return for a greater amount than the other. Once again, when exchanging gold and silver, which are considered to be a type of cash, exchanging them for their own kind but in exchange for a greater amount than the other is an example for this type of riba.

When exchanging things that are subject to interest in return for their own kinds, the difference between the qualities of the two goods in question is not taken into account. Those who want to exchange higher quality seeded wheat for edible lower quality wheat must either make an exchange in equal amount and the exchange must be up-front or they can sell the wheat in exchange for money and then actualize the sale. Thus, The

Prophet Muhammad said to Bilal (r.a.) when he exchanged two measurements of average dates for one measurement of good quality dates: *“Beware! Beware! This is definitely Riba (usury)! This is definitely Riba (Usury)! Don’t do so, but if you want to buy (a superior kind of dates) sell the inferior dates for money and then buy the superior kind of dates with that money.”*³⁵

2) Usury of surplus caused from a sale by installments (riba al-nasia): riba al-nasia can be seen in cases when there is a certain waiting term involved in the exchanging of edible stuff, gold, and silver for their own kinds. It is made clear in the following hadith that the exchanging of such substances should be made advance: *“there is no harm in selling gold for silver and silver (for gold), in unequal weight, as long as the payment being made on the spot. Do not sell them if they are to be paid for later.”*³⁶

- Both advance and dated sales are not lawful when exchanging preservable foodstuff such as grains, grapes, meat, dairy products and others with the same kind. Imam Malik accepted that wheat and barley is one category; corn, maize, and rice as another separate category; and legumes that can be cooked such as beans, chickpeas, lentils to be a category all in its own.

- The advance sale of edible substances that cannot be preserved such as vegetables and fruits in exchange for different types (of fruits and vegetables) is lawful but selling one for the other in fixed terms is not lawful. For example, because eggplant cannot be preserved it is lawful to sell 1 kg of eggplant in advance for a different amount of eggplant. However, if this sale is made dated, interest takes place.

- The advance and fixed-term sale of inedible substances, except gold and silver, are lawful even if they are of the same type. For example; a new car that has 0km on it can be sold upfront and on a fixed-term in exchange for two second hand cars, interest will not occur in this case.

33. Muslim, Hajj 147

34. Abu Dawud, Buyu 5

35. Bukhari, Wakala, 11

36. Abu Dawud, Buyu, 12

V. Fraud and Deception

There is no limit set as to how much one can profit in Islam, but it has been forbidden to lie, cheat, hide the defects of a commodity to be sold, or to boast of a quality which the commodity does not possess in the practice of trade. Thus, it is not lawful for believers who engage in trade to mislead one another using fraudulent methods and to sell a commodity at a very high price using these methods.



In Islam, every earning that is made through fraud, lying, and trickery is forbidden. It is definite that this type of earning will negatively affect the individual's acts of worship, personal and family life. Therefore, if a mistake has been made and this type of earning has been acquired, this earning must be returned to its owner. If this earning is for some reason unable to reach its owner, it should be parted with by immediately being used for a good cause without the expectation of receiving any spiritual rewards. It should however not be forgotten that this is still insufficient for trying to get rid of the sins committed and violation of someone's personal rights. Allah's Messenger (p.b.u.h.) warned tradesmen and merchants as follows: *"O community of merchants! Due to the fact that unprofitable speech and swearing in vain (swearing for a lie) are always interfering with the practice of trade, you should try to make it up by giving charity."*³⁷

One day when our Prophet was walking around the bazaar, a heap of wheat caught his

attention. When he put his hand into the wheat, he noticed it was wet. Then, he asked the seller "what is this?" The seller replied "O Messenger of Allah! Rain poured on it, because of this it is moist." Upon this our Prophet (p.b.u.h.) said to the man: "It would be good if you put the wet parts on the top so that the people can see! Someone who cheats us is not one of us."³⁸

Gabn-i fahish means selling or buying a commodity for a much higher or lower price than its worth on the market. In this kind of situation, the buyer or the seller whoever has been incurred a loss has the right to choose whether or not they would like to cancel the sales agreement, because in Islam, the principle that no one should incur losses and be treated unjustly is dominant. When it is made aware that damage and injustice have taken place, this should be eliminated in a way as fairly as possible.

VI. To Be Involved In Unfair Competition

It is forbidden to carry out practices that are harmful to others in the economic life. Our Prophet has stated: *"Carry out a job in the way you think is acceptable. Do not carry it out just so that you may compete with others..."*³⁹

These are some practices that may be reason for unjust competition to arise:

Najash Sale: (Increasing the price by provoking the customer through fake customers):

This is when a person who is not actually a buyer, interferes in a transaction by provoking the customer with the aim of trying to increase the price. The Prophet Muhammad (p.b.u.h.) stated *"Do not interfere in a sale just to provoke the customer."*⁴⁰ The seller and the person who increases the price by provoking the customer will both have participated in a sin. When this type of sale agreement has been made, the customer who later becomes aware of the situation has the right to dissolve this agreement.

It is possible and lawful to sell a commodity to a person who proposes the highest price at an auction or closed bidding. Allah's Messenger sold a poor companion's belonging to the person who

37. Abu Dawud, Buyu, 1

38. Muslim, Iman, 164, Abu Dawud, Buyu, 50

39. Tirmidhi, Birr 63

40. Bukhari, Buyu, 58, 64

proposed the highest bid at an auction. However, there should be no cheating involved in the auction. In our present day, this method is seen to be used often, especially in auctions. Even though they are not actual buyers, there are people who pretend to be buyers and interfere in an auction with the aim of increasing the price. They sometimes increase the price or they sometimes pull themselves out of an auction to ensure that the commodity is sold at a very low price in exchange for a benefit they will receive. In such cases, the buyer gets benefited instead of the seller.

The Ban on Talakki al-Rukban (Stopping convoys on the road): Talakki al-rukban is a phrase used when a group of people from the city take goods off the hands of the people that are bringing goods from the village or some other place by meeting and stopping them when they are on the way to the market. In such cases, the producer (of the product) is prevented from learning the actual price of his product on the current market. Then the merchant from the city sells the commodity he has retrieved to the market at a very high price. It is stated in the hadith: *“The Prophet Muhammad has forbidden stopping the people who are bringing goods to the market, in other words he has forbidden buying commodities off them on the road before they arrive to the bazaar.”*⁴¹



The townsman making a sale on behalf of the villager: Islam has aimed for a trade environment that is free from outside interferences, that is open to competition within its own structure, and that is smooth and transparent. This is why precautions

have been set so that the vegetables and fruit producers will not be tricked when they are trying to sell off their goods.

It is forbidden for the person from the city to stock the products of the villagers, and to put them out on the market with the title of commissioner. It has been stated in a hadith: *“The Prophet (p.b.u.h) has forbidden the person from the city to carry out a sale on behalf of the villager, even if this person is the villager’s father or sibling.”*⁴²

The hadith that Jabir b. Abdullah (r.a.) related makes this very purpose clear: *“The person from the city cannot make a sale on behalf of the villager. Leave people to be, Allah gives rizq to a section of these people because of those other people.”*⁴³

Making a Sale upon Someone else’s Sale: On the matter of trade, Islam desires that Muslims do not harm one another, that it does not become a reason for disagreements, and that one of the parties of an agreement does not get an extra benefit. This is why it will open the way for the conflict of interest when another person interferes and spoils a trade, with the intention of selling their own commodity to the customer, after the seller and buyer have already agreed upon a particular commodity and price. The Prophet Muhammad stated: *“None of you should make a sale on top of your brother’s sale.”*⁴⁴

Sale with a fasid Condition: A condition which aims to ensure a greater benefit to either the buyer or the seller is called “a fasid condition.” These are the conditions that provide only one sided benefit for the seller or the buyer.

For example; a sales agreement will be considered as fasid in situations such as when the seller who sells his house with the condition that he live in it for another year; selling land with the condition that the owner plants on it for a year; selling a car with the condition that the owner uses it for a month and then gives it to the buyer or when the buyer makes a sale with the condition that a loan or a donation is given to him in return. Because when there is a greater benefit involved for one of the parties of an agreement, it is considered as riba (interest). Because in such agreements of sale, this

41. Bukhari, Buyu, 72

42. Muslim, Buyu, 21

43. Bukhari, Buyu, 58, 64

44. Bukhari, Buyu, 58, 64

is an excess for whose worth nothing can be found. The following saying of the Prophet Muhammad makes this matter clear: *“The Prophet has forbidden making two agreements in the one agreement.”*⁴⁵

According to Islam, the importance has been given to the following principles; people should not cheat each other in their daily transactions; people should not try to use another person’s difficult situation in order to try and acquire more benefit; and Islam tries to remove the reasons that make way for both sides to be in disagreement. Amr b. Shu-ayb recounted from his father, who related from his father Abdullah b. Amr b. el-As (d.61/680) that the Prophet stated the following: *“It is not permissible to loan and also sell at the same time, to make two agreements in the one agreement, to profit from something that does not undertake the responsibility of compensation and to sell something that is not with you.”*⁴⁶ *“It is not permissible to loan and also sell at the same time and to have two conditions in one agreement.”*⁴⁷

In one transaction of buying and selling, when two separate prices have been established for selling a commodity upfront and another one with a fixed term but it has not yet been decided for which price to choose, it is not lawful to make a sale before this price is made clear. Imam Malik explains this as follows: “It is not appropriate to sell a commodity upfront for ten, and sell it for fifteen lira when it is paid on a later date); because if he buys it upfront he is buying something for ten liras that will worth fifteen lira in the future, but if he buys it for a fixed term, he will be buying it for fifteen liras in the future that worth ten lira now. Allah’s Messenger has forbidden making two sales in the one sales procedure...”

VII. Trades that are prohibited due to Obscurity

Islam aims to remove obscurity and risks from the practice of trade that could lead to disagreement of one of the parties. There are many examples in the sayings of the Prophet about trade in which it may result the seller or buyer being cheated or trade

in which it is difficult to deliver a commodity that has been sold.

There is a consensus on the matter of the sale of something that does not yet exist is invalid. Such as selling the offspring of an animal that is not yet born or selling the fruit or the crop before it has grown. Because these goods do not yet exist at the time of the sale or because they have the risk of not to come into existence, these kinds of sale contracts are deemed invalid.

The Prophet Muhammad stated in another hadith; *“Do not buy the fish in the water, because there is an uncertainty (gharar) in this situation.”*⁴⁸

If the lack of knowledge regarding the goods or their price is little or unimportant, this will not affect the sales agreement. It is not lawful to buy the fish bred in special pools or gathered in special divisions of the pools before they get caught. Because as it is possible to see the species and the quality of the fish, there is also a risk of being cheated when catching the fish.

With this reason it has been seen as lawful to sell covered plants such as walnuts, almonds, peanuts, watermelon and melon with their covering; and plants such as wheat, rice and sesame whilst they are in their ears. It will not lead to disagreement between the parties when a bag of fruit etc. is bought but when the amount is unknown. Buying these kinds of things presented in this way have become customary, that is why it will not lead to disagreement. This is why the sale will be valid.

According to Imam Malik, when the growing of some type of fruits and vegetables such as melons, watermelons, cucumbers, and carrots are seen in a normal fashion, the sale of them in the field crop will be permissible and lawful. All the produce belongs to the customer up until the crop runs out and when the roots dry out. This is why there is no fixed term, because the community knows the growth time of all of these fruits and vegetables. If a disease happens to destroy a third of the crop, this amount of pay (one thirds worth) should be deduced from the price that is to be paid to the owner of the goods.

45. Ibn Hanbal, I, 394

46. Abu Dawud, Buyu, 68

47. Bukhari, Buyu, 73

48. Ahmad b. Hanbal, I, 288

There is a consensus that the sale of fruits and crops that have not yet emerged is invalid. The Prophet Muhammad (p.b.u.h.) said to Hakim b. Hiza; *“Do not sell what you do not possess.”*⁴⁹

VIII. Engaging in Trade at the time of Ibadah

Our Almighty Lord has made it obligatory to pray the Friday prayer on the day of Friday. It is stated in the Qur'an: **“O you who believe! When [the adhan] is called for the prayer on the day of Jumu'ah [Friday], then proceed to the remembrance of Allah and leave trade. That is better for you, if you only knew. And when the prayer has been concluded, disperse within the land and seek from the bounty of Allah, and remember Allah often that you may succeed.”**⁵⁰



It is required for those who are obligated to perform the Friday prayer to leave whatever they are doing at the time of the Friday prayer and rush to the prayer. Everyone is required to attend except handicapped men who cannot join the congregation, non-Muslims, women, and children. During Friday prayer time, except those who have a valid excuse such as those who are security guards on duty, a watchmen, sick, disabled, sick nurse, it is considered obligatory upon each and every one of sane Muslim men, who have reached puberty to leave their engagement in trade or their other jobs and go to the Friday prayer in the region where the Friday prayer is being prayed.

The moment that the work should be stopped starts when the imam walks up the pulpit to deliver the sermon and it continues till the end of the obligatory prayer. It is haram and invalid to make trade at the time of the Friday prayer.

IX. Selling Items that are not Lawful to Trade (Buying and Selling)

If something is lawful to be benefited from by eating, drinking or in any other ways, its buying and selling is also lawful. Allah the Almighty states: **“It is He who created for you all of that which is on the earth.”**⁵¹ **“It is He who made the earth tame for you - so walk among its slopes and eat of His provision - and to Him is the resurrection.”**⁵²

If something is declared to be unlawful to be benefited from by eating, drinking or in any other ways through the verses and sayings of the Prophet (p.b.u.h.), its buying and selling is also unlawful. Our Prophet states in this way: *“When Allah makes something haram He also makes the earnings made from it haram too.”*⁵³

Things that have been prohibited to eat and drink in verses and hadiths, due to a harm they may cause, are considered to be “najis” (dirty). We can count wine, pork or meat of a dead animal and blood as examples of these. The sale of things that Islam does not have any value according to Islamic law such as wine, the meat of carrion, or flesh of the pig, is considered to be invalid.

In our present day, making blood transfusion to bleeding patients or people who have undergone an operation has come to be a necessary method of treatment. If blood is not given, the patients may die because of blood loss. This is why the blood that is unlawful for the healthy person becomes lawful for the sick ones; because the principle of “necessities makes unlawful things permissible” gives ease to Muslims in tight situations.

The majority of the scholars consider the selling of dogs as unlawful, because in one hadith the Prophet Muhammad forbids the consuming of the money earned from selling a dog, the money paid to the prostitutes, and the money received by

49. Abu Dawud, Buyu 70

50. Al-Jumu'ah, 62: 9-10

51. Al-Baqara, 2: 29

52. Al-Mulk, 67: 15

53. Abu-Davud, Buyu, 38, 63, 64



the soothsayers.⁵⁴ Some scholars have informed that if there is a reasonable purpose such as for hunting and watching, it is possible to sell dogs. Thus because it is possible to use the animals with grinder tooth and predatory animals such as leopards, lions, wolves, and cats for lawful purposes such as hunting and watching, their sale has also been considered as lawful.

Springs, water reserves, or wells that belong to a particular community and also water that has been filled in special containers are all considered to be private property. The owners may sell and benefit from such water. Authorities however might

say to owner of such water when there is a water shortage; “Either fill up the water yourself and give it to the person in need, or give permission for them to retrieve the water.” The lawfulness of water being exchanged for money is backed up by the following evidence: Uthman had bought a well named Rumah from a Jew in Medina and he endowed it to the Muslim community. He did this because the Prophet Muhammad had stated in relation to this well: “*Whoever buys the well of Rumah and thus offers a great comfort for all Muslims will have a place in Jannah.*”

According to Islamic law the usage of water is considered free (*mubah*) so long as it is not a part of someone’s private property. Everybody has the right to use the things that are accepted as *mubah*. Therefore they are common property and everyone has the right to benefit from sea and river waters. Every individual who has the right to benefit from the sea also has the right to use it for the purpose of watering plants or cleaning. The Prophet Muhammad stated: “*Muslims are partners regarding three things: Water, grass and fire.*”⁵⁵ This is why these three economic values should be presented to the service of society without being made an object of trade.

54. Bukhari, Buyu, 113

55. Abu Dawud, Buyu, 60



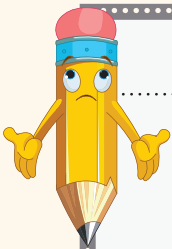
EVALUATION ACTIVITIES

1. What are the ways of acquiring a halal earning? Explain.
2. Give information about the matters a Muslim businessman must be careful of?
3. What are the principles our Prophet has set forth in relation to the life of trade? Clarify.
4. Establish the verses in the Qur’an that are about interest and write them down.
5. Give five examples from our Prophet’s sayings that are related to the issue of trade.
6. What are the basic rights and responsibilities of the employer and the employee in Islam? Explain.
7. Write down the practices that are forbidden in the life of trade.



MATCH THE PAIRS

1	Razzaq	<i>Exchanging a commodity for money or another commodity.</i>
2	Work	<i>The effort and energy exerted in order to get a job done</i>
3	Rizq	<i>The continuous job that must be carried out by a person in order to make a living</i>
4	Trade	<i>The things bestowed upon living beings by Allah the Almighty to benefit from</i>
5	Job	<i>One of the names of Allah (it means the One who bestows rizq)</i>
6	Labor	<i>To exert effort in order to bring something forth</i>



TRUE-FALSE QUESTIONS



1. () Islam has forbidden begging for a person who is capable of working and earning money.
2. () As long as there is mutual consent the selling of everything is lawful in Islam.
3. () Even if obscene plays are accepted in the world of art, they are not considered halal.
4. () Islam has forbidden even transporting and selling of alcohol and also working in a place where alcohol is sold.
5. () It is possible to prefer someone for a public service just because you are close to them, even if there is a more capable and deserving person for the job.
6. () The worker is responsible for compensating the employer when they do not show the needed care while carrying out their job and when they give harm to the employer as a result of their mistakes.
7. () Just like the one who takes bribe will go to hell, it is accepted that the one who gives the bribe will also go to hell.
8. () According to Islamic law, the arm of a thief whose crime has been established must be cut from the elbow.
9. () If a person buys all of the goods off a market and stocks it all in the hopes of making a high profit, and then sells it. This action of his will not be lawful.
10. () The ones who want to exchange high quality wheat for lower quality edible wheat must actualize this exchange upfront.
11. () The one who buys a commodity for a much higher price than what is on the market has the right to cancel this transaction.
12. () It is possible and lawful to sell a commodity to the person who proposes the highest bid in an open auction or closed bid.



FILL IN THE SPACE QUESTIONS

(Profiteering, najash sale, aggression, nasia riba (interest), talaqqi al-rukban, grass, wealth, children, gambling, taqwa, intoxicants, fa-sit condition, haram, fire)

1. "The fire of hell is befitting for a body that is nourished by" (Abu Bakr)
2. "O you who believe! Let not your and your divert you from the remembrance of Allah." (Al-Munafiqun, 63: 9)
3. means to pull out a commodity from the market, or to stock it and not to release it to the market in order to sell it when its price increases.
4. "And cooperate in righteousness and, but do not cooperate in sin and" (Al-Maidah, 5: 2)
5. "O you who believe! Indeed,, [sacrificing on] stone alters [to other than Allah], and divining arrows are but defilement from the work of Satan, so avoid it that you may be successful." (Al-Maidah, 5: 90).
6. If a certain term is applied in exchanging the edible foodstuff or gold and silver with each other, this is called
7. The name of the trade when a person who is not an actual buyer interferes in the trade with the aim of increasing the price is called
8. means that a group of people from the city stop the villagers or people coming from elsewhere on the road in order to take their products which they bring to sell at the city market.
9. The term used for the condition where a greater benefit is secured for either the seller or the buyer is
10. "Muslims are partners regarding three things: "Water, and" (Abu Dawud, Buyu, 60)



WRITE "LAWFUL" OR "UNLAWFUL" IN THE SPACES
THAT ARE LEFT BLANK IN THE TABLE

Selling the meat of carrion	Unlawful
Selling an automobile with the condition the owner uses it for a month before giving it to the buyer	
Buying the fish swimming in the sea	
Engaging in trade at the time of Friday prayer	
Buying a dog for the purpose of hunting and watching	
Selling the water in a bottle	
Selling a brand new car in exchange for two second hand ones	



WORD SEARCH: Find the words

E	J	W	O	R	K	G	H	A	R	A	R
C	J	P	F	O	O	D	F	O	T	D	L
O	K	G	H	A	B	N	Y	Y	R	J	S
T	Q	S	E	L	L	I	N	G	A	C	U
B	N	A	J	A	S	H	B	I	N	O	I
B	B	G	H	A	S	B	G	L	S	N	J
R	Z	G	L	A	B	O	R	Q	A	S	H
I	S	U	S	T	E	N	A	N	C	E	I
B	U	S	U	R	Y	R	Q	K	T	N	L
E	E	M	P	L	O	Y	E	R	I	T	A
E	M	P	L	O	Y	E	E	L	O	K	H
G	D	N	A	S	I	A	F	M	N	Y	W

USURY
TRANSACTION
GHARAR
NAJASH
GHABN
HILAH
NASIA
GHASB
BRIBE
EMPLOYER
EMPLOYEE
SUSTENANCE
CONSENT
LABOR
FOOD
WORK
SELLING



MULTIPLE CHOICE QUESTIONS

1. Which information is correct?
 - A) It is Sunnah for a man to try and ensure the maintenance of his family
 - B) No one consumes something more virtuous than what comes from the labor of their hand
 - C) Allah loves those who work for art
 - D) Even if he is in a condition that he can work, a destitute person is allowed to beg for money
2. Of the options below, which of them is not a requirement regarding the obtaining of sustenance?
 - A) It should not be forgotten that the provider of sustenance is Allah
 - B) A job that arouses sexual feelings should not be chosen
 - C) Care should be shown when choosing a job to earn sustenance
 - D) Because worship decreases the productivity of work, the acts of worship should not be performed in the place of work.
3. Which one is amongst the rights and responsibilities of the employer?
 - A) To try to carry out the job he has undertaken in a very careful manner
 - B) To give the worker's pay before his sweat dries up
 - C) To care for and protect items trusted to his responsibility
 - D) To carry out the job that is wanted of him in a satisfactory manner
4. Of the options below, which one cannot be considered as prohibited earning in the life of trade?
 - A) Extortion
 - B) To acquire a high profit
 - C) To take bribe
 - D) To sell a commodity for much more than its worth on the market
5. Interest is one of the major sins in the Religion of Islam. Of the options below, which one cannot be shown as an example of trade that is involved in interest?
 - A) To exchange a kilo of corn with a kilo of rice upfront
 - B) To exchange a kilo of chickpeas with a kilo of beans in fixed terms
 - C) To exchange a kilo of eggplant upfront with two kilos of eggplant
 - D) To make a fixed term exchange of a kilo of eggplant with three kilos of eggplant

CHAPTER 5

HALAL (LAWFUL) and HARAM (FORBIDDEN)

CONTENTS

- A. THE BASIC PRINCIPLES AND LAWS OF ISLAM IN RESPECT TO HALAL AND HARAM
- B. FOODS AND DRINKS THAT ARE HALAL AND HARAM
- C. RULINGS ABOUT HUNTING ANIMALS
- D. RULINGS RELATED TO CLOTHES
- E. RULINGS ABOUT ADORNMENTS AND DECORATION
- F. RULINGS RELATED TO USING FURNITURE AND DECOR OF THE HOME
- G. RULINGS ABOUT ENTERTAINMENT AND LEISURE
- H. OATH AND VOW
- I. UQUBAT (WORLDLY PUNISHMENT AND SANCTIONS)



PREPARATORY WORKS

1. Are laws in Islam related only to worship and good morals? Discuss.
2. Why has Allah prohibited drinking alcohol? Research the effects of alcohol on society.
3. Research about the drawbacks of smoking to the health and about the stance of Islam on this topic
4. Examine the rules of Islam on hunting animals?
5. Make a research about what the private areas ('awra) of a man and woman are.
6. What are the limits of physical adornment for men?
7. Is it permissible to display images of live creatures in the home?
8. Research about the effects of gambling on families.
9. How does a believer carry out the atonement of an oath? What kind of oaths require atonement?
10. What are the hadd punishments in Islamic law? Memorize them

A. THE BASIC PRINCIPLES AND LAWS OF ISLAM IN RESPECT TO HALAL AND HARAM



1-Anything which has not been prohibited is Halal: “If there is no ayah or hadith prohibiting a certain thing, then that thing cannot be deemed unlawful (haram). When the Messenger of Allah was asked about fat, cheese, and meat of a donkey, he said: *“That which is halal is what Allah has made halal in His book, and what He has deemed haram is haram, however what he has not mentioned (whether its lawful or unlawful) – this is a mercy for you (you are free regarding them’).*”

“Allah has declared some things as obligatory upon you. Do not skip them; He also has drawn some limits. Do not violate them. He declared some things as prohibited (haram). Do not commit them. Not because He has forgotten but because of His Mercy for you, He has not said anything about certain things. Do not question them.”

2-Only Allah decides what is halal and what is haram: Allah alone has the authority to declare things to be allowed or prohibited, no human has this authority. Prophets merely convey the restrictions and laws of Allah to human, that is their task. Allah says in the Holy Qur’an: **“And do not say about what your tongues assert of untruth about Allah. Indeed those who invent falsehood about Allah will not succeed...”**³

For this reason, Scholars of Islam do not say “haram” about something which has not been prohibited by the texts (Qur’an and Sunnah), they prefer to classify it “makruh” (disliked).

3-There are always lawful alternatives to any haram thing: Islam has not declared haram anything that is vital and necessary for the human being. In fact things which are completely or mostly harmful are the ones declared haram, e.g. alcohol.

4-Anything that leads to a haram is also haram: The best way to avoid something that is haram is to get rid of the harmful steps that lead to it. This is the stance of Islam. The aim is not to punish the criminal but to prevent the crime. For example; as zina (extra-marital intercourse) is forbidden, so too are the things that lead to it; such as being alone with a person from opposite sex in a place, lustful images and music, etc.

5- Using tricks to make Something haram look halal is also haram: Coming up with ways to make something haram look halal does not change its unlawfulness, it is still haram. The Prophet Muhammad (p.b.u.h) had warned us that this will happen: *“One day a group from my ummah will change the name of wine and declare it halal.”*⁴ Likewise, legitimizing inappropriate images with

1. Tirmidhi, Libas, 6; Ibn Majah, At’imah, 60.

2. Narrated by Dârakutnî, Nawawi classified it as a hasan hadith

3. Al-Nahl, 16: 116

4. Bukhari, Ashriba, 6

the reasoning that it is merely “art” does not make it lawful.

6-Good intention does not legitimize the unlawful: Using something haram with good intentions to obtain a positive outcome is not allowed. For example; taking part in gambling, theft, or interest in order to build a mosque or charity institution can never be permissible. The following saying of the Prophet Muhammad (p.b.u.h.) supports this fact: *“A slave of Allah who acquires haram wealth and gives charity from it, he shall not be rewarded for it and it will not be accepted from him. If he spends from it, he does not gain any blessing from it. If he leaves it behind, it will drag him into the hellfire. Verily Allah does not erase the evil deed with an evil one, he erases evil one with a good deed. Indeed the repulsive does not wipe out the repulsive.”*⁵

7-Avoid that which is suspected to be haram: Islam has clearly defined what is halal and what is haram. There is also the grey area, in other words there are things whose lawfulness we are not certain of. Piety, in this case, drives a Muslim to beware of what is haram and what he is suspicious may be haram. The following hadith is like a rule in this matter: *“That which is halal is clear and that which is haram is clear. And between the two of them are ambiguous matters of which many people do not know. He who avoids the suspicious (ambiguous) matters clears himself in regards to his religion and honour, but he who falls into suspicious matters falls into that which is haram, like the shepherd who pastures around a sanctuary, all but grazing therein. Truly every king has a sanctuary, and truly Allah’s sanctuary is His prohibitions”.*⁶ The Prophet (p.b.u.h.) also said that: *“Leave that which is ambiguous, take that which is not (in other words which is clearly halal).”*⁷

8-Somthing which is haram is also haram outside the Muslim abode: A Muslim is not permitted to commit adultery, gambling, theft, or

any other haram action no matter wherever he/she is on earth. Haram is haram everywhere.

9- Wasting is haram: Throwing away food, clothing, and other items that have not been used or consumed is overindulgence and considered haram.⁸Likewise, spending money in excess is strongly discouraged in Islam.

10- Necessity temporarily makes haram permissible: Islam, which keeps the circle of unlawful very limited, permit flexibility regarding this circle during the time of necessity. For example, if a person has the risk of dying, and he has no other food or drink, he may eat or drink from something haram just enough to keep himself/herself alive without over-indulgence.

“Time of necessity” only refers to a setting or moment in which no halal alternative exists.

The following verse is repeated where swine, meat of a carrion, and blood are repeated in the four chapters of the Qur’an: **“...But whoever is forced (by necessity), neither desiring it, nor transgressing its limit, there is no sin upon him.”**⁹

If a Muslim nearby owns more food or drink than he needs, he is obliged to feed the Muslim who is in need. If he fails to do so, the needy Muslim may take it from him. The responsibility is of the wealthy person who does not help the needy person.

It is permitted for a Muslim to be diagnosed of his illness or made comfortable with something that is haram (if it is mandatory). For example, although the Prophet prohibited men to wear silk fabric, he permitted some men who had illnesses related to their skin.

5. Ahmad b. Hanbal, Musnad

6. Tirmidhi, Buyu, 1

7. Bukhari, Zabaih, 2, 9

8. Al-Isra, 17: 26

9. Al-Bakara, 2: 173; Al-Maida 5: 3; Al-An’am, 6: 145; Al-Nahl,

B. FOODS AND DRINKS THAT ARE HALAL AND HARAM**I. Foods that are declared to be haram**

Meat of carrions, flowing blood, swine flesh, meat of animals slaughtered without the mentioning of Allah's name are all unlawful in Islam.

Here is some other animals which are not lawful:

Land animals: The consumption of predatory wild animals, pests and insects that are considered repulsive to be eaten is makruh (disliked).

Sea animals: The consumption of all sea animals are halal. Regarding the sea, the Prophet (p.b.u.h) has said: *"Its water is clean, and its food is permissible."*

II. Intoxicants and Drugs

Intoxicants are drinks that, when a certain amount is consumed, cause intoxication, i.e. drunkenness. Islam does not allow drinking any kind of intoxicant: **"O you who believe, indeed, intoxicants, gambling, worshiping idols and divining arrows are but defilement from the work of Satan, so avoid it that you may be successful. Satan only wants to cause you animosity and hatred through intoxicants and gambling and to avert you from the remembrance of Allah and from prayer. So will you not desist?"**¹⁰

Other prohibitions related to intoxicants:

1- Any drink that causes drunkenness is haram: The term "khamr" mentioned in the Qur'an encompasses all kinds of intoxicants, and they are all prohibited. In response to a question, the Prophet Muhammad said: *"Anything that causes drunkenness is an intoxicant (khamr) and all intoxicants are haram."*¹¹

2- If drinking a large quantity of something causes intoxication, then a little of it is also haram: As intoxicants may result in addiction and habit over time, drinking a minimal amount

presents a high risk of increasing the amount of consumption. The Prophet Muhammad says: *"That of which a lot causes drunkenness, even a small amount of it is not permitted (haram)."*

3- Trading intoxicants is haram: Islam has forbidden the trade of alcohol, even if it is with non-Muslims. The Prophet Muhammad (p.b.u.h.) said the following regarding this matter: *"Allah has cursed intoxicants, and whoever drinks it, whoever pours it, whoever sells it, whoever buys it, whoever presses (distils) it for another, whoever presses it for himself, whoever delivers it, whoever accepts its delivery or whoever benefits from its profit."*¹²

4- It is haram to attend an event where alcohol is served: As well as a believer is required to avoid what is unlawful, it is his/her duty to warn others about what is haram. Umar (r.a) narrates from the Prophet (p.b.u.h.): *"He who believes in Allah and the hereafter should never sit at a table that khamr is being served."*¹³

5- Treatment with intoxication is not permitted: Tariq b. Suwayd al-Ju'fi came to the Prophet Muhammad and asked a question about alcohol. The Prophet asserted that it is haram, then Tariq blurted: "But I take it as medicine", so the Prophet replied: "It is not a cure, it itself is a disease."¹⁴

6- It is haram to take drugs: Drugs such as heroin, cocaine, marijuana, ecstasy are more dangerous and harmful than alcohol and they result in the destruction of who consumes it. Islam has commanded humans to protect their intellect, thus anything that destroys the intellect and conscious thought is haram.

III. Smoking

There is no clear ruling in the Qur'an or Sunnah regarding smoking, however the majority of

10. Al-Ma'ida, 5: 90-91

11. Muslim, Ashriba, 73-75

12. Tirmidhi, Buyu 58; Ibn Maja, Ashriba 6

13. Tirmizi, Edeb 43; Ebü Davüd, Et'ime 18

14. Müslim, Eşribe, 12

Islamic jurists have classified it as reprehensible. On the other hand; as smoking significantly harms the smoker and others around him, and causes wasteful expenditure resulting in using up resources, it is argued whether or not it may be considered haram.

Smoking is not something a pious Muslim would do, it does not fit with righteous-

ness. Allah says in the Qur'an; **"Do not throw yourselves into destruction..."**¹⁵ and **"Do not kill yourselves..."**¹⁶

Smoking "shisha" or "nargile" is similar to smoking tobacco, thus its ruling is the same.

15. Al-Baqara, 2: 195

16. Al-Nisa, 4: 29

C. RULINGS ABOUT HUNTING AND SLAUGHTERING ANIMALS

Hunting is done by preying on and slaughtering land or sea game and birds. Some wild animals that are only caught through hunting are also considered game.

Even though hunting has not something favorable by Islam, it is still permissible with certain conditions:

1- Purposely causing the game animal to suffer pain and torturing it mentally or physically is prohibited.

2. The hunter must be a skilled one, not amateur. He needs to be good at shooting targets, and must mention Allah's name when he shoots. If the animal is caught alive, he must slaughter it in an Islamically appropriate manner.

3. Hunting should not be done for fun or entertainment. It should only be done if the hunter acquires livelihood or food from this practice. Pregnant or baby games are not to be targeted.

4. In order to minimize the pain felt by the slaughtered, a sharp or lethal weapon must be used. Game slaughtered by a knife, sword, arrow, bullet, pellet may be eaten.¹⁷

Killing an animal, however, with a rock or club by beating or crushing it is not allowed whatsoever and this animal may not be eaten.¹⁸

It is haram to cause the game to suffer or to torture it. Tying the animal alive to a specific spot



after it has been captured in order to make practice shooting on it is forbidden.

5. Hunter dogs, falcons and birds that have been trained to hunt may be used for hunting. The verse **"...Lawful for you are all good foods and game (caught by) what you have trained of hunting animals which you train as Allah has taught you. So eat of what they catch for you, and mention the name of Allah upon it, and fear Allah..."**¹⁹ speaks of this very matter. The trained hunter animals need to be properly trained and must bring the prey to its owner without starting to eat it.

6. Before placing the fishing rod or net in the sea, throwing an arrow or shooting with a gun, the hunter must say the Basmala. Sacrificing an animal with a name other than Allah is not allowed. Allah the Almighty says in

17. Al-Ma'ida, 5: 94

18. Al-Ma'ida, 5: 3

19. Al-Ma'ida, 5: 4

the Qur'an: **"And do not eat of that which the name of Allah has not been mentioned."** ²⁰

If the hunter forgets to mention Allah's name while hunting, he may do it just before he eats the cooked game.

7. Eating a tame animal also requires slaughtering it in the Islamic way. If the animal is injured or close to die, it must be slaughtered and not left to die, otherwise it will be forbidden to eat it. The proper way to slaughter the animal is by cutting the two main arteries, respiratory and food passages altogether.

There are two ways of slaughtering animals which are allowed to be eaten:

20. Al-An'am, 6: 121

1. Tall animals such as camels are slaughtered by striking the knife (weapon) into the joining point of its neck and chest. This is called *nahr*.

2. Other animals are slaughtered by placing them sideways on the ground and striking them on the area between their chin and neck. This is called *dhabh*.

If the sacrificial animal gets escaped, it may be stopped by shooting it. Our Prophet advised to throw an arrow at a camel that escaped from being slaughtered.²¹

21. Bukhari, Zabaih, 15-18, 23

D. RULINGS RELATED TO CLOTHES



'Awra is classified in two groups: Major (mughallazah) 'awra and minor (khafif) 'awra.

1) Major 'awra: A man's major 'awra is his private parts (back and front). However a woman's major 'awra is all the parts of her body not including hands, feet, head, chest and part of the back aligned with the chest.

2) Minor 'awra: A man's minor 'awra is his hips, groin area, and legs. A woman's minor 'awra is her whole body excluding her face and hands. It is not acceptable to view a woman's minor or

I. Covering the 'awra

The term 'awra refers to the parts of the body which must be kept covered from others with appropriate clothing as displaying them is forbidden. Allah has conveyed the command of covering the 'awra through all His messengers sent to man. The parts of the body defined as 'awra are different for men and women, as well as the parts which are meant to be covered in the presence of specified relatives and others.

TYPES OF 'AWRA

Major 'awra (Mughallaza)

Minor 'awra (Khafif)

MEN: (main) private parts

WOMEN: From navel to knees[+] stomach area and those aligned with it

MEN: Navel to knees

WOMEN: The whole body except for hands and face

major 'awra and likewise she is not allowed to expose them.

Major 'awra is to be covered during prayer (salat). However if a man is unable to find clothing to cover, he is permitted to pray whilst naked. Covering minor 'awra is not an obligatory condition of the prayer however it is *wajib* (necessary). Imam Malik has asserted; "The person praying without covering the minor 'awra (woman's hair, chest and back) should repeat the prayer whilst its time is not overdue.

In normal circumstances, one must pray with clothing prescribed in the Sunnah. According to Imam Malik, if a person cannot find any clothing other than that which is dirty, he may pray in it. If however he finds clean clothing before the prayer time is overdue, he should perform his prayer again with the clean garments.

A Muslim must be cautious not to display his 'awra. If a woman's face and hand cause temptation when displayed, it is recommended that she covers them or puts in effort to make them less appealing to foreign men. The following hadith relates to our topic: *"The woman is 'awra and should be covered, when she leaves her home Satan glares at her."*²²

The hands and face do not need to be covered during prayer as long as they do not incite any temptation. **"And tell the believing women... to guard their private parts and not expose their adornment except that which necessarily appears..."**²³

This ayah refers to the parts of the body which adornments are worn on, the face and hands are not included. One day, Asma, the sister in law of the Messenger of Allah, entered his presence whilst wearing transparent clothing that reveal her skin under it, Allah's Messenger turned his face away and said *"O Asma! When a girl reaches puberty, she must cover everything other than this and this"* referring to her face and hands.²⁴

In the 31st verse of chapter al-Nur, Allah has mentioned the non-marriageable kin (*mahram*)

men to whom a Muslim woman may display her adornments (*zinah*).

- Her husband (he is allowed to see her whole body)
- Her father, grandfathers, father in law and grandfathers of her husband, maternal and paternal uncles
- Her sons and sons of her husband
- Her slaves, male servants free of physical needs, mentally ill and extremely elderly men
- Small boys who are not aware of sex

According to Muslim jurists a woman's ornaments (adornments) "*zinah*" are: her hands, face, head, hair, ears, neck, arms, feet and bottom of her legs. This is so, because she beautifies these parts of her body with jewelry. According to this, a woman may expose her hands, face, head, hair, neck, arms and feet in front of her non-marriageable kin (*mahram* men). She may also display her ornaments in the presence of her brother, father, grandfather, uncles, and foster brother (milk sibling) as they are all men who she may never marry. However, if there is any fear of temptation, then it is better for her to cover them. Furthermore, it must be noted that she is allowed to display them, but not obliged to, thus she may cover her ornaments in the presence of her non-marriageable kin and this is better for her.

The limits for a woman's 'awra in the presence of other Muslim women are between her stomach (navel) and knees. She is allowed to expose the rest of her body to other women. A woman is not allowed to show the area between her navel and knees even to her mother or sister. Wherever she may be, displaying this part of her body to other women or men is prohibited. If there is no necessity involved, a Muslim woman is advised not to show the part above her waist to even her female kin.

Covering the body with transparent clothes is not considered proper cover. Praying with such garments makes the prayer invalid. If the clothing is solid and not transparent however makes

22. Tirmidhi, Rada, 18

23. Al-Nur, 24: 31

24. Abu Dawud, Libas, 31

obvious the shape and size of the body parts, the prayer is considered valid however this form of covering is censured.

The ‘awra of a seven year old male child during prayer is his private part, his thighs, hips and bottom. It is recommended that the child covers these parts just like the adult men.

For a girl, upon whom prayer is obligatory, the ‘awra is from her navel to knees, however it is *mandub* (recommended) that she covers like adult women whilst praying. When not praying, small children under eight years old do not have any ‘awra, i.e. they are not obliged to cover.

Muslim jurists (*fuqaha*) see no harm in exposing the ‘awra in times of necessity. For example; when ordered by a doctor, nurse, surgeon, police to examine the ‘awra parts of the body, one may show this area with the condition that he or she does not display more than what is required.

The ‘awra should not be displayed randomly without reason, this is why, a woman must consult a female doctor when she is ill. However if no female doctor exists or is available, she may be diagnosed by a male doctor and she may only show the necessary amount from her ‘awra to the doctor with the condition that a male *mahram* is present, because, “the level of the necessity is decided in accordance with its level of intensity.”

If a woman covers her face, she may show her face when required. A woman who presents herself as a witness in a court must show her face for identification purposes.

II. Matters to be considered when selecting clothing

We should keep in mind that disregarding the covering of our body is Satan’s trap: **“O children of Adam, we have bestowed upon you clothing to conceal your private parts and as adornment. But the clothing of righteousness—that is best. That is from the signs of Allah perhaps they will remember. O children of Adam, let not Satan tempt you as he removed your**



parents from Paradise, stripping them of their clothing to show them their private parts...”²⁵

Those who go out in public should dress appropriately, **“O children of Adam, wear your adornments to the masjid...”**²⁶

One day a man whose hair and beard were unkempt (messy) came to the Prophet, the Prophet said: *“Is it not better for you to come after having brushed your hair and tidied yourself, rather than with messy and untidy hair like the Satan?”*²⁷

Again, the Messenger of Allah saw a man with dirty clothing and said: *“Couldn’t this man find anything to wash his garments with?”*²⁸

Clothing worn for the purpose of showing off or flaunting one’s pride has been prohibited.

Outfits made from animal skin should not be preferred. Islam, which prohibits animal killing for fun, does not allow killing wild animals for their fur or skin. This is why wearing leather clothing is considered reprehensible. In addition to that, the skin may be cleaned on the outside, while the interior may not be properly cleansed. Thus, it is not permitted to perform prayer on the non-furry side of a leather prayer mat, whereas it is permitted on the furry side.

25. Al-A’raf, 7: 26-27

26. Al-A’raf, 7: 31

27. Muwatta’, Sha’r 7

28. Abu Dawud, Libas 14; Ahmad b. Hanbal, Musnad, 7/357

INFORMATION BOX

A Muslim must be clean and tidy in his clothing: Allah's Messenger (p.b.u.h) said: "Indeed Allah loves to see his slaves wearing the His blessings (i.e. good clothing)." (Tirmidhi, Adab, 54)

III. A woman's outer garments and its characteristics

Islam has commanded women to cover themselves in the presence of non-*mahrams* (men to whom they have no impediments to get married). A woman who leaves her home, must wear a jilbab (outer garment) and khimar (head scarf) in addition to covering her 'awra parts of her body. This is obligatory upon her. The Qur'an mentions in chapter al-Nur (24) verse 31 and chapter al-Ahzab (33) verse 59 that when Muslim women leave their homes, or in the presence of men, they must cover their bodies except for "what is apparent", pull their covers over their bosoms (chest), wear a single garment from head to toe, hide their adornments and move in a manner that will not expose their hidden ornaments.

When a woman enters the presence of a group of a marriageable (non-mahram) and/or non-marriageable (*mahram*) men, there are some matters that should be considered. These are:

- a) Her garments must be thick enough not to show what is beneath it (her skin).
- b) The garment must not reveal her body shape. Her clothing should not be too tight to expose her body and it should be in a way that it covers from the sides of her body.
- c) The clothing must not be attractive or dressy. A Muslim woman should wear her fancy and attractive clothing at home solely for her husband. When in public, amongst other men, she must wear her head cover and outer-garments. However, she is allowed to wear pleasant clothing that does not attract the attention of the opposite gender.

The Beloved Prophet (p.b.u.h) said: "*There are three people with whom Allah would not speak to or ask questions on the Day of Judgment, he will send them to eternal torment. A Muslim who rebels to a pious leader and dies as a rebel, a servant who rebels to his master and dies that way, a woman who leaves her husband and is seduced by worldly desires and adornments. These three people will be punished with no questions asked.*"²⁹

A woman should not wear anything tight that reveals the shape of her body parts. Uthama b. Zaid narrated: "One day Allah's Messenger gifted me a tight fitted dress called "*qutbi*." I took the dress and gave it to my wife. When Allah's Messenger asked why I did wear it, I told him that I gave it to my wife. He then said "*Go and tell her to wear a shirt under it. I fear that her body will become apparent [in the dress].*"³⁰

A proper garment must be thick enough not to show the skin underneath it.

Islam has given women certain obligations and responsibilities, and at the same time has granted her ease. During menstruation period after child birth, she is exempted from prayer, fasting, and obligations during hajj. Women in Islam are not obliged to perform Friday Prayer, Eid Prayer, Funeral Prayer and she does not have to take part in Jihad or perform prayers in congregation, she is recommended to pray in her home. Both genders are different in their own ways, thus Allah has asked the woman to cover more for the peace and well-being of society.

29. Hakim, al-Mustadrak, 1/119; Ahmad b. Hanbal, al-Musnad, 6/19

30. al-Makdisi, chosen ahadith 1/441

IV. A woman must be decent and dignified while walking and talking

A woman must be reserved and sensible whilst in public. To amble or walk coquettishly does not fit with the decency of a Muslim woman. Allah says in the Qur'an: **"And let them not stamp their feet to make known what they conceal of their adornment."**³¹

When she is needed to talk with a male, she must do so in a respectable and modest manner. Women are recommended to occupy themselves with house chores and responsibilities of the home instead of spending long hours outside of the home.

Women are allowed to talk to men, ask questions, and make transactions with them when it is needed. We know that the wives of the companions would speak to men when needed and buy things from them. Allah's Messenger told his wife Sawda: *"Allah has allowed you (all) to go out (of the home) to obtain your needs."*³²

In another hadith, he commanded *"Do not prevent women from entering the Allah's mosques."*³³

And thus, he allowed women to go out of their homes for legitimate purposes such as buying necessities, performing acts of worship, pursuing education, and attending social activities like marriage ceremonies etc.

When speaking to a man who is not of kin, a Muslim woman must be reserved and talk as much as it is necessary. The following verse will shed some more light: **"Do not be soft in speech [to men], lest he in whose heart is disease should covet, but speak with appropriate speech."**³⁴ This verse conveys to all Muslim women that they must speak to men with a sedate and collected manner, and speak only what is necessary.

It is a tradition of the Prophet (p.b.u.h.) for a Muslim man to say the Islamic greeting (Salam)

to other Muslim men, and Muslim women to other Muslim women when they meet. However for a man and woman who are not related or neighbors, it is not appropriate for them to greet each other if they are alone.

V. Looking at the Opposite Gender

It is haram for a Muslim to look at another person's 'awra or attempt to see it. A Muslim may look with lust only to his or her spouse.

It is haram for a person to look at the opposite gender with lust. Islam does not blame a man or woman for the first seeing. Allah's Messenger (p.b.u.h) said to Ali (r.a): *"O Ali! Do look back for the second time, the first seeing has no harm but you are responsible for the second."*³⁵

Men and women must control their gazes. This is expressed in the following verse from the Holy Qur'an: **"Tell the believing men to lower their gaze and be modest..."**³⁶

"And tell the believing women to lower their gaze and be modest ..."³⁷

A Muslim man may look at the hands and face of the woman he intends to marry. Allah's Messenger has advised men who wish to get married to look at the girl whom they interested in, and he adds: *"This is better for your happiness and agreement."*³⁸

VI. Shaking Hands with the opposite gender

Shaking hands with the opposite gender is not an appropriate act in Islam, since Islam aims to protect the required distance between man and woman. Young men and women, no matter how certain they may be that there will be no attraction between them, are not allowed to physically mingle.

When the verse about the principles of pledging allegiance for women was revealed to

31. Al-Nur, 24: 31

32. Bukhari, Nikah 115

33. Muslim, Salat 136

34. Al-Ahzab, 33: 32

35. Muslim, Adab 45; Abu Dawud, Nikah, 43

36. Al-Nur, 24: 30

37. Al-Nur, 24: 31

38. Nesai, Nikah 17

the Prophet, he collected all the Muslim women in Medina and asked for their pledge. 'Aisha (r.anha) describes this event as follows: *"To each and every believing woman who accepted the conditions of the verse, the Prophet said: "I have made a pledge with you", I swear by Allah, during the pledge he did not touch the hands of any women."*³⁹

If there is no fear of mischief, an old woman's hand may be kissed as a respectful gesture. Thus, it has been noted that Abu Bakr (r.a) would greet old women. Likewise it was reported that while Abdullah b. Zubair (r.a) was ill in his home, he hired an old woman as his care-giver



VII. Separating Beds

When the male and female children reach the age of ten, their rooms should be separated. If this is impossible due to financial restricts, the children may be sent to dorms to get educated. They should not be allowed to sleep in the same places. Allah's Messenger has said in respect to this matter: *"When your children are ten years of age, make them sleep in separate beds."*⁴⁰

If children are younger than seven years old, they may share beds with other family members. However once they reach seven years of age, it is absolutely prohibited for a male and female child to sleep in the same bed.

After ten years of age, the prohibition of sleeping in the same bed also consists of the same genders. This separation has some wisdom and benefit behind it. Abu Said al-Hudri narrated from Allah's Messenger: *"Let not a man look at the 'awra of another man! And the woman should not look at the 'awra of another woman! Let not a male sleep with another male under the same cover! Likewise let not a female sleep with another female under the same cover!"*⁴¹

VIII. The meeting of a man and woman in seclusion

Men and women who are not of kin and young men and women are not allowed to be alone in any secluded place. Such an environment may trigger temptation and bring about rumors. If men and women must sit together in the same room due to necessity, it must be done appropriately.

A woman should try to avoid being alone with a man in an isolated place. The Prophet Muhammad has said: *"Beware of being alone with a woman (non-mahram)"* When the companions asked "O Allah's Messenger, what about the brother in law?" He replied, *"The brother of the husband is death."*⁴²

In another hadith he has asserted: *"Whoever believes in Allah and the Last Day, let him not sit with a woman [who has no mahram with her], as the third company will be the Satan."*⁴³

At the end of the same hadith, Our Prophet advises women not to travel alone without a close male relative by her side.

Coming together with men should only take place due to necessity. A man and woman who work together and meet often should beware not to be alone in seclusion and should act sensibly when they meet. The ideal way to stay in the same place is with the presence of a close male relative (*mahram*) or a group of people.

39. Bukhârî Ahkâm 49, Shurût, 1
40. Sunan-u Dârekutnî, 1: 230

41. Ahmed b. Hanbal, al-Musnad, 372/1242
42. Tirmidhi, Rada, 16; Ahmad b. Hanbal, IV, 149, 153
43. Bukhari, Nikah, 111; Ahmad b. Hanbal, 1/222; 3/339

E. RULINGS ABOUT ADORNMENTS AND DECORATION



Islam has allowed decoration and adornment – with certain limits – that highlight the natural beauties of human beings bestowed them by Allah the Almighty. However, Islam regards the adornments and modifications that alter the natural form and creation as satanic. This is because Satan has said: “... and I will command them to change the creation of Allah.”⁴⁴

I. Adornments Prohibited to Men

In Islam men are not allowed to wear silk as it is considered feminine. “The Prophet has not allowed men to wear silk. However if a dress has approximately an amount of silk equal to two, three or four fingers wide, there is no harm in it.”⁴⁵

The Prophet (p.b.u.h) has said: “Do not dress in silk garments for he who wears silk in this world will not be able to wear it in the hereafter.”⁴⁶

A man is not allowed to wear gold jewelry in Islam. Abu Musa al-Ash'ari (r.a) narrates from Allah's Messenger: “Wearing silk and gold is haram for Muslim men and halal for Muslim women...”⁴⁷

Ali (r.a) explains that Allah's Messenger was holding silk in his right hand and gold in his

left, and affirmed: “Indeed these two have been made unlawful for the men of my ummah.”⁴⁸

According to a report from Ibn Umar (r.a), he said that: “Allah's Messenger bought and wore a gold ring. Everyone who saw it bought one too and began to wear it. Upon seeing this Allah's Messenger said: “I used to wear this ring, but from now on I will never wear it” and he removed the ring from his finger. His companions did the same.”⁴⁹

Ali (r.a) has stated: “The prophet has prohibited the wearing of gold rings, using pillows with gold embellishments, wearing silk and drinking wine.”⁵⁰

Wearing outfits that represent non-believers and their faith has been prohibited. This is why it is reprehensible to wear clothing dyed red and yellow with saffron.

II. Tattoos, Filing Teeth, Plucking Eyebrows and Cosmetic Surgery

It is known that tattoos which are done by the injection of ink into the skin and altering the form of the crowns of the teeth by force are both painful and may harm the health.

According to a narration related by Abdullah (r.a) “Allah's Messenger cursed those who get tattoos done, and who does it on the others. Those who pluck their eyebrows and those who file their teeth to make them thinner or widen the gap between the teeth.”⁵¹

Altering or modifying teeth that are healthy and normal for aesthetic purposes is not acceptable. Abu Rayhana (r.a) narrates: “Allah's Messenger has prohibited making the teeth thinner to beautify them, getting tattoos and plucking the eyebrows to make them more attractive.”⁵²

44. Al-Nisa, 4: 119

45. Nasai, Ziyadah: 84; Muslim, Libas, 2

46. Bukhari, Libas, 25

47. Tirmizi, Libas 1

48. Abu Dawud, Libas 11

49. Muslim, Libas, 3; Abu Dawud, Khatam, 3

50. Abu Dawud, Libas: 11; Muslim, Libas, 2

51. Bukhari, Libas: 83; Muslim, Libas, 33

52. Bukhari, Libas: 87; Muslim, Libas, 33

Replacing a bad tooth with a new one is permitted, and it is not an obstacle for minor or major ablution.

Modifying the eyebrows is done by plucking the eyebrows and making it thinner or more shaped. This is a form of altering the creation of Allah. However, according to some Scholars of Islam (such as Imam Nawawi), it is permissible for a woman to remove facial hair and apply light makeup with her husband's permission.

Cosmetic surgery that includes the altering of the nose, chin, breasts and other parts of the body generally requires a large sum of money. Spending so much money for such a thing is not acceptable. However, if a person is constantly repressed and mocked due to an abnormality in his or her appearance, it is permitted to undertake a surgery for this matter. The Prophet has cursed the person who widens the gap between his/her teeth for beautification purposes.⁵³ This excludes necessity or health reasons.

III. WEARING WIGS

Islam does not consider wearing wigs acceptable as it alters the natural appearance and misleads others.

The Prophet had prohibited and condemned those who wear wigs with or without a reason.⁵⁴ Ibn Umar (r.a) narrates: "Allah's Messenger has said: *May Allah curse and withhold his mercy from the maker and wearer of wigs, the maker of tattoos and who is tattooed.*"⁵⁵

Likewise Asma bnt. Abu Bakr narrated that Allah's Messenger cursed the wearer and maker of wigs.⁵⁶

The issue of hair transplanting for those who experience hair loss is controversial and its permissibility has been much debated.

IV. Applying Eyeliner and Perfume

According to Ibn Abbas (r.a), Allah's Messenger said: "Apply eyeliner with *ismid* (a type of stone) for it benefits the eyes and nourishes the eyelashes." Ibn Abbas has expressed that the Prophet has an eyeliner jar and would apply this eyeliner thrice to both eyes every night.⁵⁷

A woman should not put on perfume that sparks temptation when leaving home. She may put perfume while with family members or other women, not in the presence of other men.

During ihram, one of the things to be avoided is perfume. Muslim scholars have unanimously agreed that whether it be major or minor pilgrimage, one who enters the state of ihram should not apply perfume.

V. Dyeing the Hair and Beard

During the time of Prophet Muhammad, the elderly Jews and Christians would not dye their white hair or beards, so the elderly companions were encouraged to dye their white hair and beards.⁵⁸

Islam has allowed the dyeing of hair, however dyeing the hair black is debated. Women have been permitted to dye their hair black. According to Abu Hurayra (r.a), Allah's Messenger has said: "*Dye your white hair and beard with henna, do not leave it white like the Jews.*"⁵⁹

Dying the hair with a mixture of red, red-black henna and natural dyes has been regarded as permissible by scholars. Allah's Messenger has encouraged this action for the purpose of being different from the infidels and it was perceived as a recommendation rather than command, thus companions such as Abu Bakr and Umar dyed their hair, but others such as Ali, Ubayy and Anas did not.

VI. Rules regarding haircut and styling

Ibn Umar (r.a) narrates that Allah's Messenger saw a child whose hair was shaved on

53. Bukhari, Libas, 82, 84; Muslim, Libas, 120

54. Buhari, Libas, 83, 85; Müslim, Libas, 115, 117, 119

55. Ebû Dâvûd, Teraccül: 5; Nesâî, Ziyne: 22

56. Ebû Davud, Tereccül: 5; Tirmizî, Edeb: 32

57. Nesâî, Ziyne: 28

58. Bukhari, Anbiya, 50; al-Libas, 67; Muslim, Libas, 80

59. Nasai, Ziyneh: 65; Abu Dawud, Taajjul, 18

one side and longer on the other side, so he condemned this haircut style and prohibited it; “Either shave the whole head or leave all of it.”⁶⁰ According to Ibn Umar, “Allah’s Messenger prohibited the unequal shaving of the hair.”⁶¹



Ali (r.a) narrates from Allah’s Messenger (p.b.u.h.): “It is unlawful for a woman to shave her hair like a man’s.”⁶²

VII. Grooming and Growing the Beard

Growing the beard is a Sunnah of the Prophet (p.b.u.h.). Under normal circumstances, all Muslim men should grow a beard equal in length on all sides. Allah’s Messenger has said: “Do not look like the polytheists, grow your beards and shorten your mustaches.”

⁶³Thus, majority of scholars have propounded that under normal circumstances, it is not allowed for a Muslim man to shave his beard.

60. Bukhari, Libas, 72; Ibn Majah, Libas, 38

61. Bukhari, Libas, 72; Ibn Majah, Libas, 38

62. Tirmidhi, Hajj, 75; Abu Dawud, Manasik: 79

63. Bukhari, Libas, 63-34

The beard may be groomed or shortened. Imam Malik has said: “[A man] should grow his beard as long as other Muslim men grow it, he should shave the excess, it is recommended to do so. Not cutting the excess would make him look messy. There is no limit to shortening the beard. It is best to shorten it until it looks presentable and tidy.”

VIII. Imitating the Opposite Gender

A man or woman should not be imitating the opposite gender, whether it be wearing clothing of the opposite gender or any other form of imitation. Both genders are unique in their own ways and have appropriate clothing for their needs and characteristics. Imitating the opposite gender is indeed an act of evil, and those who do are considered to be deviant from the straight path.

The Prophet has cursed the male who imitates the clothing or actions of a female and likewise the female who imitates the male in this manner. The following hadith will further explain: “Allah has cursed the women who imitate men and the men who imitate women.”⁶⁴ Abdullah b. Abbas explains; “The prophet has cursed those women who imitate men and the men who imitate women and he ordered their abandonment.”⁶⁵ Abdullah b. Omar narrates from The Prophet: “There are three types of people who will not enter the Paradise and Allah will withhold His mercy from them on Judgment Day. One who is not obedient to his parents, the woman who imitates men and the husband who is not protective of his wife.”⁶⁶

64. Bukhari, Libas, 61

65. Bukhari, Libas, 62

66. Ah-mad b. Han-bal, II, 134

F. RULINGS RELATED TO USING FURNITURE AND DECOR OF THE HOME

Every living creature has a habitat, the human’s habitat is his or her home. The Prophet (p.b.u.h) has said: “Four things bring hap-

piness: A good spouse, a spacious home, good neighbors and a comfortable ride.”⁶⁷ Further-

67. Ibn Hibban, Sahih

more, Allah the Almighty says in the Qur'an: **"Say: Who has forbidden the adornment of Allah which He has produced for His servants and the lawful things of provision?"**⁶⁸ referring to adornments of the home such as flowers, embellishments and decorations.

When Allah's Messenger said *"One who has an atom's weight of pride in his heart shall not enter Paradise."* When a man asked "But what about one who loves to wear adorned clothing and slippers" Allah's Messenger said to him: *"Indeed Allah is beautiful and he loves that which is beautiful."*⁶⁹ It should be noted that these permissions and encouragements are not absolute but rather have certain conditions:

I. Gold, Silver dishes and Silk Cloths

Huzayfa, a Companion of the Prophet, said that: "Allah's Messenger disallowed us to eat and drink from gold or silver plates, wear silk garments or use silk cloths to sit on. And he told us: *"These things are for them (non-believers) in this life and for us in the hereafter."*⁷⁰

This hadith makes evident that it is haram for both men and women to use gold and silver dishes and silk cloths as home decor. Furthermore, withdrawing gold or silver from the market to use it at home for decoration will have negative impacts on the economy.

II. Statues

*"The angels do not stay in a home in which there are statues."*⁷¹ *"On Judgment Day, those who sculpt such things will have the worse torment"*⁷² The above sayings of the Prophet (p.b.u.h.) make it clear that a Muslim should not keep statues in his home or take part in making them.

The following are some reasons why statues are not allowed in Islam:

a) Statues and idols have been regarded as idols throughout history, and people worshiped them. Islam aims to enforce the faith in tawhid (Oneness of Allah) through banning idols in the home.

b) Carving and sculpting idols may make the artist feel as though he has Creator-like features, comparing himself to God.

c) Preventing the sculpting of symbols or images that do not fit with Islam

d) Avoiding unnecessary extravagance and wasteful expenditure.

Toys, dolls and toy animals are excluded from this category. Nevertheless, 'Aisha had toys of this type and was playing with them while still a child, hence Allah's Messenger did not ban her from them.⁷³

III. Images

At the beginning of Islam, until faith in One God had been properly established, the Prophet was strict on the drawing of images and pictures, however afterwards he was more lenient, with certain conditions. Islam has brought with it certain rulings regarding the art of making images and using them:

- It is haram to draw images of things that are worshiped and holy

- It is haram to draw naked people and things that are disrespectful to Islam

- Drawing things other than live creatures is allowed. Ibn Abbas, after conveying the ban on drawing to an artist, he added: "if you insist on drawing, draw those things which do not carry should such as plants and trees."

A collection of ahadith put forward the Prophet's disapproval of images of the animals and live beings, whereas other ahadith show us that he has not disapproved of them when they are present in the fabric of such items as cushions and rugs as these things are not erected.

68. Al-A'raf, 7: 32

69. Muslim, Iman, 147

70. Bukhari, Ashriba, 28

71. Bukhari, Bad al-khalk, 7

72. Bukhari, Adab, 75

73. Muslim, Adab, 54

IV. Photographs

Scholars of Islam have allowed the taking of photographs for the purpose of official matters such as passports, identity cards, government affairs etc.

Taking and using photographs of people, animals and nature is allowed, however the purpose and use of the photograph is taken into account.

Photos of naked people, Christian saints and similar images are not allowed.

When it comes to the approval or disapproval of photography as an occupation, Islam allows taking photos of what is not unlawful.

V. Pet Dogs

Allah's Messenger (p.b.u.h) has stated: "Keeping and raising dogs (in the home) other

than hunter, guard, farmer and shepherd dogs makes one lose some of his *hasanat* (good deeds) every day."⁷⁴ The ahadith which inform us that angels do not enter a home that contains a dog, when combined with the above hadith,⁷⁵ make it clear that it is not allowed in Islam to keep a dog for purposes other than protection or hunting.

It is important to note that Islam encourages and commands kindness to animals and Allah rewards those who feed and help them. Allah's Messenger has informed us of the sinful man who was forgiven and granted with Paradise for giving water to a thirsty dog.⁷⁶

74. Bukhari, Zabaih 6

75. Bukhari, Bad al-Khalk, 7, 17

76. Buhari, Shurb, 9

G. RULINGS ABOUT ENTERTAINMENT AND LEISURE

Islam is a way of life that is suitable to human nature and needs. Relaxation and having a good time are things that every human needs. The only creatures who devote their whole existence to worship are the angels.

Just as the human stomach yearns for food and drink, the eyes yearn to look at pleasant things and the ears yearn to hear pleasant sounds. Just as food is necessary for the body, it is impossible to prevent all things that the body desires. Thus, Islam has allowed entertainment and leisure that do not cross the boundaries of what is lawful. The goal of Islam is to educate and control the self by avoiding what is haram.

I. MUSIC

Music is the art of combining vocal and instrumental sounds to produce harmony and an expression of emotion.

Music, when not used for haram purposes, is permissible. However, with regards to the person

who performs it, the music which is performed, the instruments played, the setting and audience, the ruling may differ. It may be prohibited, reprehensible, permissible or recommended based on the situation.

Producing Music:

Engineering and producing music as an occupation is considered reprehensible. Musical



gatherings have not been much recommended since the beginning of Islam. In the ahadith, some musical instruments and musical performers have been criticized. However these ahadith are weak according to scholars.

Scholars of Islam agree that the musical instruments which are generally used in gatherings serving wine and intoxicants, are not permitted, however other instruments played for relaxation, therapy purposes such as the ney, drum, tambourine are allowed. The big drum used in war and the tambourine played at weddings are allowed according to Muslim jurists.

According to credible sources, Our Prophet allowed and even encouraged the use of musical instruments at occasions such as weddings, festivals and welcomings. Furthermore, there is no sahih (authentic) hadith that points out the unlawfulness of music.

Music that one listens to for relaxation is not harmful. Imam Abu Yusuf was asked: "What's your opinion about a woman or child playing the tambourine at home?" He replied: There is no harm in it. But if it arouses frivolous dancing and excitement, I would say it is reprehensible.

Singing:

Song lyrics generally do not contain any beneficial words, most are full of statements conveying objection to one's fate and similar topics that Islam does not approve of. Singing is only *mubah* (permitted) when the singer is cautious in his actions, words and music so that they are not Islamically inappropriate.

When choosing the right words for a song, provoking and encouraging the listeners to lust and other evil is not allowed. Music that arouses a desire to dance has been criticized in the hadith.

If the music is being performed at a place that contains wine and alcohol, it is haram to perform in such an environment and being present in this place is not advised.

Listening to Songs:

Listening to music (depending on the type) may be haram (unlawful), makruh (disliked), mubah (permissible) or mustahabb (recommended).

1) If the clothes worn by the singer, voice, lyrics or music spark desire or lust in the listener, it is haram, especially listening to female singers. It is prohibited for youth who are more apt to be affected by such music to listen to provocative songs.

2) Listening to music instead of worship is makruh. This is why it is disliked to dedicate hours and hours to music.

3) Music that relaxes the mind and nerves is permissible. Thus, it is fine to listen to songs which do not seduce the listeners to the singer's voice.

4) Listening to music that inculcates the love of God and the Prophet, one's homeland, animals, kindness and reminds us of the destitute and poor, our efforts in war and heroic defense of our country is mustahabb, as these things have positive impacts on our thoughts. Likewise, a person who ponders on the love of Allah and His magnificent creation through the music he or she listens to, it is mustahabb for this person to listen to music.

II. Television and Cinema

Cinema and television are means of transferring news, information and entertainment to us. We cannot say that they are completely haram, it is important to judge it according to what is being screened.

When we take a look at the cinema and television, we are able to notice that most advertisements, films and programs are not very decent, thus it is not advised to watch such things. To avoid coming across inappropriate and immoral viewings, we should avoid the channels that broadcast such things.

It is a Muslim's task to use the television for viewing the educational and beneficial programs, and to avoid what is indecent.



III. JOKING

Jokes, witty remarks and humor are things that entertain people. Our Beloved Prophet displayed his sense of humor at appropriate times.

An old woman came to the Prophet and said "Pray to Allah that I enter Paradise." The Prophet (p.b.u.h.) replied to her "O Mother, old women shall not enter Paradise." The woman was shocked and saddened that she will not be able to enter Paradise. Having seen her sudden grief, the Prophet explained; "The old woman will not be old in Paradise, Allah will create her for a second time as a young virgin" and he added the following verse from the Qur'an: **"Indeed, we have produced the women of Paradise in a [new] creation, And made them virgins..."**⁷⁷

One who intends to make a joke should not insult, or make fun of anybody and he should not disregard the virtue or honor of anybody. He should not lie for the purpose of making others laugh.⁷⁸ *"Woe on he who lies to make others laugh!"*⁷⁹

IV. Sports

Running: Running is a sportive activity which has many benefits, and when it is done for

competition, it is entertaining for the athlete and the audience. The Companions would take part in running races. It is said that Ali (r.a) was a fast runner. The Prophet and his wife 'Aisha would continuously race each other. 'Aisha would be first, but when she gained weight the Prophet would come first. This story was explained by 'Aisha. Likewise, sports such as football, basketball, tennis and others are permissible, however, the players should be dressed in Islamically acceptable clothing.

Shooting: The Prophet has encouraged shooting as a sport as it develops skills that are needed in war, and it is a worthwhile activity during free time. When the Prophet met people practicing to shoot (arrows) he would encourage them by saying *"Come on, shoot, I'm with you!"*⁸⁰

The only limit to this sport is shooting live targets such as animals, this is not allowed.

Animal fighting: Making animals fight and sometimes kill each other for entertainment has been banned by the Prophet (p.b.u.h.).

Fencing and Javelin: Javelin and fencing with cultural dances has been a practice since early times. One time Umar (r.a) wanted to ban it however the Prophet stopped him and said "Leave them Umar, let them play." The Prophet (p.b.u.h.) himself offered his wife 'Aisha to watch this event, and she sat in a secluded part of the masjid to watch this show as it took place in the masjid. Allah's Messenger said: *"Come on Ethiopians! Show us what you have!"*⁸¹ and also *"try to understand young girls who are interested in entertainment (fun), appreciate them."*⁸²

Wrestling: Wrestling is a sport that the Prophet has approved and even encouraged. The Prophet had wrestled the great wrestler of his time Rukana, and defeated him.

Horse-riding and swimming: The hadith *"Every action far from the remembrance of Allah is amusement and idleness, except for three things;*

77. Surah Waqia verse 35-36

78. Surah Hujurat verse 11

79. Tirmidhi, Zuhd 10

80. Bukhari, Jihad 78; Manaqib, 4

81. Muslim, Iydayn, 17, 21

82. Bukhari, Nikah, 82

... racing between two targets (shooting), a husband playing with his wife and swimming," encourages horse-riding and shooting. In another hadith, the Prophet has said: *"Teach your children how to swim, shoot and teach your women to spin thread."* Caliph Umar, in his letter to the people of Damascus had said, "Teach your children how to swim, shoot and ride a horse."

It has been narrated that the Prophet would conduct horse-riding races and reward the winner.

Backgammon: *"He who plays backgammon, it is as if he has dipped his hand in the flesh and blood of a pig."*⁸³ *"He who plays backgammon has not obeyed Allah and His Messenger."*⁸⁴ Scholars who have examined the above hadith put forward that playing backgammon is haram. Other scholars argue that the hadith refers to when it is played as gambling (with money), thus it is permitted to play without money involved. Games that are similar to backgammon are only permissible if they do not involve gambling or cause addiction.

Chess: Chess emerged and became an issue of discussion after the death of the Prophet during the time of the companions. There is no clear evidence that prohibits chess. For it to be permitted however it needs to be played with the following conditions:

- a) Prayer should not be delayed while playing
- b) Gambling of any sort should be avoided
- c) Players should refrain from cursing each other or bad-mouthing while playing

Rewarding Winners:

Awards or medals given to winners by a third party or organization are permitted. Competitors cannot play a game with the deal of paying money or something valuable if they are defeated. However, it is allowed when both competitors make a deal whereby one of them says "If you defeat me, I will pay you this much, however if I defeat you,

you do not need to give me anything," There is no harm in such an agreement.

Likewise, when it comes to academic competitions or debates, if one person says: "If you are right, I will give you this much money, and if I'm right, I don't want anything," there is no harm in such a deal. If the other person is successful, he may take the sum of money that has been promised to him. However, if either side is obliged to give a certain amount of money in the case of his defeat, this is considered gambling and is haram.

V. Gambling

Islam has banned gambling as it is harmful and destructive to society. When a game is played by money with the illusive promise that they may win something without having to earn it, yet they carry the chance of losing money, this is gambling. The verse in the Qur'an which prohibits gambling:

"O you who believe, indeed, toxicants, gambling, stone alters and divining arrows are but defilement from the work of Satan, so avoid it that you may be successful. Satan only wants to cause animosity and hatred between you through intoxicants and gambling to avert you from the remembrance of Allah and from prayer"⁸⁵

The reasons for this prohibition are:

a) Gambling involves losing or winning based on chance, without putting in any effort. Taking somebody else's money in such a way, even if they give consent, is haram. It can only be taken through lawful exchange.

b) Although the loser may seem fine with the outcome, there is no doubt that he develops hatred and enmity towards the winner.

c) Gambling results in addiction as the loser plays again in hope of winning the next game to regain his loss and the winner plays again due to his greed for more money. Thus, time and money is wasted and Islamic obligations such as prayer are neglected.

83. Ibn Majah, Adab, 43

84. Abu Dawud, Adab, 56

85. Al-Ma'ida, 5: 90-91

d) The impacts of gambling will not only affect the individual, in fact it is a danger to society. It makes the gamblers non-productive useless people who do not contribute to the development of society. A Muslim does not base his earnings on a chance game, but he works and exerts effort to earn his living in a lawful manner.

Lottery, raffling, games based on luck, sport betting (e.g. horse racing) and online gambling are all unlawful. Online gambling where money is earned or lost is not any different from ordinary gambling. Spending money on a chance game rather than donating to the poor is indeed no act of virtue. Additionally, organizing gambling competitions by which all earnings will go to charity is not acceptable.

Drawing of Lots: Drawing lots is a permissible method when a decision is to be made and no other selection method exists.

Drawing lots has been mentioned in the Qur'an and Sunnah. The Qur'an tells us that Prophets in the past had drawn lots to solve certain disagreements.

Drawing lots or flipping coins is a method still used today. When two people join to sacrifice and slaughter an animal together, they decide on who will get which piece by drawing lots in this way, it is a fair distribution. The same method is sought, sometimes when determining the inheritance of the heirs, so that nobody feels less favored.

H. OATH AND VOW

I. Oath

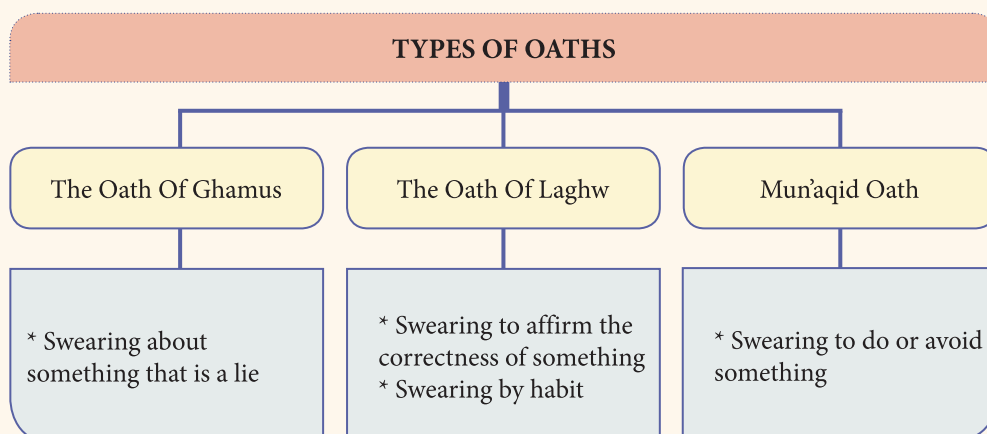
An oath is a promise to do something where a person strengthens this promise and swears by Allah's name.

The swearing is valid when one swears by any name of Allah or in the following manner: "Wallahi, Billahi, Tallahi, I swear by Allah..." etc.

Making an oath tied to a condition does not require swearing by Allah's name. It is like a vow. For example: "I'm not going to do this again, if

I do, I will give you my car." This is a valid oath, and must be fulfilled if the condition is met. If the person does not do so as promised, he has sinned, however if he made an oath to commit a sin, he should not do it but instead must atone for it (give *kaffarah*).

Making an oath is permitted however should not be done in exaggeration, it is *makruh* to do so.



Types of Oaths and their rulings:

a. The oath of Ghamus: Swearing about something while knowing that it is not true, i.e. a lie. For example; a person who is supposed to pay a debt says “Wallahi I already paid my debt,” while knowing that he hasn’t. This type of oath is lying, a major sin in Islam. Atonement (kaffarah) is not even an option for this type of oath as it is stealing somebody else’s right to know the truth by using Allah’s name.

b. The Oath of Laghw: It is swearing about something, believing in its correctness, although it is not. For example, somebody who must do a certain chore forgets that he has not carried it out and believes that he has, thus swearing that he has done it.

Swearing by Allah’s name; and casually saying Wallahi, Billahi, by mistake or repetitively is the oath of Laghw. Swearing for no reason and with an exaggerated frequency has been criticized in the ahadith.

c. Mun’aqid Oath: Swearing to do or not to do a certain act, for example: “Wallahi, from now onwards, I will finish reading the whole of the Qur’an every year.”

One who makes such an oath must fulfill it, if he or she does not, then they must atone for it. One who breaks a Mun’aqid oath should pay the penalty. This includes:

- Freeing a slave
- If this is not possible, clothing ten poor people or providing for them two meals for one day, or feeding a poor person for ten consecutive days.
- If he or she has no money to feed ten poor people, then he should fast for three days.

II. Vow

A vow is to make obligatory upon oneself to do a certain thing, or to refrain from doing something which has not been commanded in Islam.

The person who makes a vow is obliged to fulfill it as it is a promise made to Allah. However



vowing to do something that is unlawful shall not be carried out, instead the expiation is paid.

Conditions of a Vow:

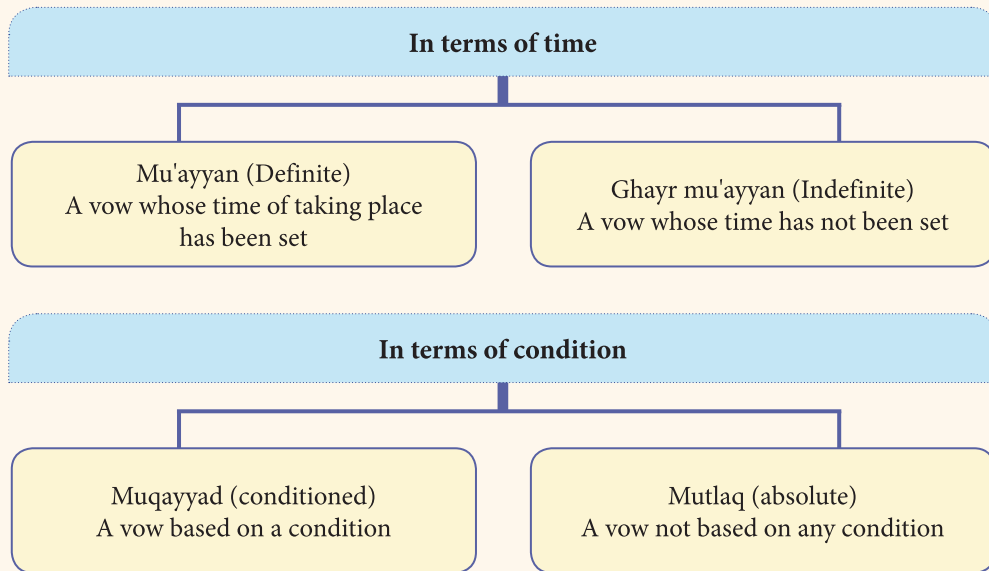
- The vow must be Islamically appropriate, it should not be a haram or makruh promise. One who vows to do a haram act is not allowed to fulfill this vow, and must pay the expiation penalty. Likewise vowing to do something that is physically impossible requires expiation.
- There must be a obligatory (fard) or necessary (wajib) act related to the thing that is promised, such as fasting or sacrificing an animal (Qurban)
- The promised vow must not be an obligation that the person who vows is already required to perform (e.g. Fasting in Ramadan).
- The promised act of the vow needs to be an act of worship itself.

Types of vows:

Mutlaq vows are those that are not tied to a certain condition, e.g. “I will fast three days for the Sake of Allah” or “I will sacrifice a sheep for the sake of Allah.”

Muqayyad vows are those that are fulfilled with a certain condition, e.g. “If my son graduates from school I will feed the poor” or “If Allah cures me of my illness, I will sacrifice a qurban.”

If a vow is not tied to any condition, i.e. if it is mutlaq, it is best to fulfill it as soon as possible. If the vow is muqayyad, e.g. “If Allah cures



my daughter I will fast for a month,” once his or her daughter recovers, it is wajib upon the person who has made the vow to fast a month. If he or she fasts before their daughter is cured, it is invalid.

No matter what type of vow may be, every vow must be fulfilled. A vow whose time has been mentioned and a vow whose condition has been mentioned must be realized once the time and condition is met. It is a sin to ignore the obligation of the vow, and neglect it.

I. UQUBAT (WORLDLY PUNISHMENT AND SANCTIONS)

Islam has established laws and orders that must be obeyed and the sanctions established by the Qur'an and Sunnah or by the authorities of the Muslim state to punish those who fail to obey them is called **uqubat**.

Punishments that have been defined by the Qur'an or Sunnah are called **hadd** punishments. As for those defined by Islamic authority, they are called **ta'zir**.

I. Hadd punishments

There are five types of hadd punishments, which are the penalties for; committing adultery, theft, drinking alcohol, slandering an honorable woman, and banditry. These punishments can only be imposed on the guilty by the Islamic state or the authorities and not by the individuals.

a. Punishment for Adultery:

The punishment for extra-marital sexual relationship (a married adulterer and adulteress) is stoning to death (*rajm*), however for pre-marital fornicators, the punishment is flogging (a hundred strikes). The Qur'an informs us of the punishment for non-married adulterers and the Sunnah defines the punishment for married adulterers.

الرَّزَانِيَةُ وَالزَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِنْهُمَا مِائَةً جَلْدَةً وَلَا تَأْخُذْكُمْ بِهِمَا رَأْفَةٌ فِي دِينِ اللَّهِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَلْيَشْهَدْ عَذَابَهُمَا طَائِفَةٌ مِنَ الْمُؤْمِنِينَ

“The [unmarried] woman or [unmarried] man found guilty of sexual intercourse

- lash each one of them with a hundred lashes, and do not be taken by pity for them in the religion of Allah, if you should believe in Allah and the Last Day. And let a group of the believers witness their punishment.”⁸⁶

The adultery mentioned in this ayah refers to the zina of unmarried adulterers (pre-marital). We know from the Sunnah that Prophet Muhammad (p.b.u.h) also exiled a male adulterer for a year.

Scholars of Islam unanimously agree that the punishment for extra-marital adulterers is stoning to death, the ruling for this punishment is determined by very well-known sayings of the Prophet (which almost reached the degree of mutawatir) and ijma' (consensus). During the time of the Prophet, there were a few cases of punishment practiced for the act of adultery of a married man and woman.

The Prophet (p.b.u.h.) has said: “*The killing of a Muslim is prohibited other than in these three circumstances: Retaliation for murder, extra-marital intercourse and apostasy.*”⁸⁷.

The Prophet ordered the stoning of a woman who admitted that she had illegal intercourse. In another occasion, the Prophet told his Companion Unays: “*O Unays, go to that woman, if she admits to adultery, stone her.*”⁸⁸.

A woman who fell pregnant after committing adultery was punished after the birth of her child, as she would constantly admit her crime to the Prophet. This woman surrendered herself with submission to the punishment decreed by the Prophet for her sin. After leading her funeral prayer, Prophet Muhammad said: “*She has made such a repentance that if it were divided among seventy men of Medina, it would be enough. Have you found any repentance greater than sacrificing one's life for Allah the Almighty?*”⁸⁹

Zina (adultery) is a grave sin. However to be able to punish one for committing zina, there



needs to be four male witnesses of the act, or the guilty person must admit that he committed zina four times in four different trials.

b. Slander (Kazf):

Slandering a chaste woman, expressing that she has committed zina – although this is not true – is a major sin in Islam. The Prophet (p.b.u.h.) has warned: “*Avoid the seven noxious sins: associating partners with Allah (shirk), magic, unjust murder, consuming interest, consuming the wealth of an orphan, fleeing from Jihad and slandering chaste women.*”⁹⁰

الرَّانِي لَا يَنْكِحُ إِلَّا زَانِيَةً أَوْ مُشْرِكَةً وَالزَّانِيَةُ لَا يَنْكِحُهَا إِلَّا زَانٍ أَوْ مُشْرِكٌ وَحُرِّمَ ذَلِكَ عَلَى الْمُؤْمِنِينَ وَالَّذِينَ يُزْمُونُ الْمُحْصَنَاتِ ثُمَّ لَمْ يَأْتُوا بِأَرْبَعَةِ شُهَدَاءَ فَاجْلِدُوهُمْ ثَمَانِينَ جَلْدَةً وَلَا تَقْبَلُوا لَهُمْ شَهَادَةً أَبَدًا وَأُولَئِكَ هُمُ الْفَاسِقُونَ

The punishment for slander has been mentioned in the Qur'an: “**And those who accuse chaste women and then do not produce four witnesses - lash them with eighty lashes and do not accept from them testimony ever after. And those are the defiantly disobedient, except for those who repent thereafter and reform, for indeed, Allah is Forgiving and Merciful.**”⁹¹

86. Al-Nur, 24: 2

87. Bukhari, Diyat, 6; Muslim, Qasama, 25, 26; Abu Dawud, Hudud, 1

88. Bukhari, Sulh, 5

89. Muslim, Hudud, 28; Ibn Majah, Diyat, 36

90. Bukhari, Wasaya, 23; Muslim, Iman, 38; Abu Dawud, Wasaya, 10

91. Al-Nur, 24: 4-5

c. Punishment for theft:

The punishment for stealing something worth dearer than ten dirhams value which belongs to somebody else has been highlighted in the Qur'an: "[As for] the thief, the male and the female, amputate their hands in recompense for what they committed as a deterrent [punishment] from Allah . And Allah is Exalted in Might and Wise."⁹²

The Prophet (p.b.u.h) has said: *"Those who were before you were destroyed because of this reason: When a noble person stole anything they would not punish him, however when a weak person stole something they would punish him."*⁹³

When the thief is punished, the stolen goods are returned to the owner if they are still available, however if the goods no longer exist, but the thief is able to recompense the amount of money that the stolen items are worth, then he must do so, if not, his penalty is sufficient.

Caliph Umar (r.a), during times of famine and poverty, suspended the hadd of theft as people were stealing food to eat. As asserted by Prophet Muhammad: *"Avoid the hudood (punishments) in doubtful cases"*⁹⁴

d. Punishment for Banditry:

Banditry is the crime of stopping people (mostly with weapons) to take their money and kill or rape them. It is a major sin in Islam. Allah

says in the Qur'an: **"Indeed, the penalty for those who wage war against Allah and His Messenger and strive upon earth [to cause] corruption is none but that they be killed or crucified or that their hands and feet be cut off from opposite sides or that they be exiled from the land. That is for them a disgrace in this world; and for them in the Hereafter is a great punishment."**⁹⁵

The Muslim state or authority, by placing maslaha (public benefit) as a priority, is allowed to apply any of the punishments stated in the above verse. However, the authority should not choose a punishment based on their own jurisdiction, but they should consult those who are knowledgeable (jurists). All scholars are in agreement that bandits who kill people are to be penalized with the **hadd** punishment. This punishment cannot be alleviated nor dropped, even if the family of the murdered victim has forgiven the murderer, or even if he returns what he has stolen.

e. Punishment for Drinking Alcohol:

Even if only a little amount of alcohol has been consumed, and the drinker has not become drunk, the hadd punishment is applied. The Prophet Muhammad has said: *"Flog the one who drinks wine"*⁹⁶

Abu Hurayra (r.a) explained what happened to a drunk man brought to Allah's Messenger:

INFORMATION BOX

Drinking intoxicating beverages has been prohibited by both the Qur'an and Sunnah. The verses that firmly assert its prohibition are as follows: "O you who have believed, indeed, intoxicants, gambling, [sacrificing on] stone alters [to other than Allah], and divining arrows are but defilement from the work of Satan, so avoid it that you may be successful. Satan only wants to cause between you animosity and hatred through intoxicants and gambling and to avert you from the remembrance of Allah and from prayer. So will you not desist?" (Al-Maida, 5: 90, 91; See other verses. Al-Bakara, 2: 219; al-Nisa, 4: 43; al-Araf, 7: 157; al-Nahl, 16: 67)

92. Al-Ma'ida, 5: 38

93. Al-Shawkani, ibid., VII, 131, 136

94. Abu Dawud, Salat, 14; Tirmidhi, Hudud, 2

95. Al-Ma'ida, 5: 33

96. Abu Dawud Hudud, 36; Tirmidhi, Hudud 15; Nasai, Ashriba, 42

“Some of us beat him with our hands, and some with their garments, and when we finished, some-one said to him, “May Allah disgrace you!” On that the Prophet said, “Do not say so, for you are helping Satan to overpower him.”⁹⁷

Drinking any type of drink that has an intoxicating effect requires the *hadd* punishment. The source of this ruling is the following hadith: *“Every intoxicating beverage is khamr and every khamr is haram (unlawful).”⁹⁸*

The punishment for drunkenness is eighty lashes. The source of this ruling is the following report from Ali (r.a): *“When a person drinks alcohol, he may get drunk, and when he gets drunk, he behaves and speaks unconsciously and this may lead him to slander others. And the punishment for slander is eighty lashes.”⁹⁹*

f. The Punishment for Apostasy

Apostasy is the act of leaving Islam and declaring oneself a non-Muslim.

Allah says in the Qur’an: **“And whoever of you reverts from his religion [to disbelief] and dies while he is a disbeliever - for those, their deeds have become worthless in this world and the Hereafter, and those are the companions of the Fire, they will abide therein eternally.”¹⁰⁰**

Majority of Mujtahids are in agreement that the penalty for apostasy is death. They present the following ahadith as proof: *“Kill the one who leaves his religion”¹⁰¹; “The blood of a Muslim cannot be shed except in three cases: Retaliation (Qisas) for murder, extra-marital intercourse (adultery) and the one who turns renegade from Islam (apostate).”¹⁰²*

However, individuals are not entitled to penalize another person for apostasy. It is the job of the

authorities and legal system to be fully convinced that the person has left Islam. Also, the person who has left Islam is asked to repent initially, if he resists, then he may be punished.

The ruling of punishment for apostasy in this manner is mentioned in traditional sources, and some recent scholars put forward that the approach to apostasy during the time of Prophet Muhammad and his Companions was so because apostasy in that time had political as well as ideological impacts. The apostate would leave Islam and take part in mischief to destroy and harm the Muslim nation, hence, one who leaves Islam today and has no political agenda or threat to Islam is free and shall not be punished.



II. Punishment for Injury or Murder (Qisas and Diyyah)

a. Qisas (Equal retaliation):

Qisas is applied for purposefully killing or injuring somebody. The punishment in the form of retaliation for such crimes (eye for an eye) is mentioned in the Qur’an and Sunnah. The following is a verse from the Qur’an: **“O you who have believed, prescribed for you is legal retribution for those murdered - the free for the free, the slave for the slave, and the female for the female. But whoever overlooks from his brother anything, then there should be a suitable follow-up and payment to him with good conduct. This is alleviation from your Lord and a mercy. But whoever transgresses after that**

97. Bukhari, Hudud, 4; Muslim, Hudud 35; Abu Dawud, 35, 36; Tirmidhi, Hudud, 14, 15

98. Muslim, Ashriba, 73; Abu Dawud, Ashriba, 5

99. Al-Shawkani, Nayl al-Awtar, VII, 144; Zaylai, Nasb al-Raya, III, 351

100. Al-Baqara, 2: 217

101. Bukhari, Jihad, 149, I’tisam, 28; Istitabah, 2; Abu Dawud, Hudud, 1.

102. Bukhari, Diyat, 6; Muslim, Qasamah, 25, 26; Abu Dawud, Hudud, 1

will have a painful punishment. And there is for you in legal retribution [saving of] life, O you [people] of understanding, that you may become righteous.”¹⁰³

b. Diyyah (blood money):

Diyyah is financial compensation given to the family or heirs of a murdered victim. The compensation for hurting, injuring, disabling or paralyzing a victim is called *arsh*. Diyyah is sometimes used to refer to *arsh*.

The defined amounts to be paid as diyyah during the time of Prophet Muhammad and the four caliphs were one of the following: a) a hundred camels, b) a thousand dinars gold, c) twelve thousand dirham silver.¹⁰⁴

The compensation for injury is mentioned in ahadith: For example, cutting off somebody's hand requires paying half of the full diyyah, breaking a tooth requires the payment of one tenth of the diyyah. As a principle, for parts of the body of which only one exists, the full diyyah is paid, however for parts of the body that are two in quantity, half a diyyah is paid for each, and for the parts that four exist, a quarter of a diyyah is paid for each. For matters and circumstances that are not mentioned in the texts, the judge decides the punishment. The ruling of diyyah declared by the authority is called ***hukumat al-‘adl***. For the injuries to the face and head, *hukumat al-‘adl* is applied.

In the case of injury or paralysis, the victim may request the application of Qisas. However, when a person is killed, his heirs and the state are entitled to choose between qisas and diyyah. Heirs of the murdered victim have the right to the diyyah compensation.

According to the Maliki school, here are some practices and principles related to qisas and diyyah:

- In the case of injuring a person without intention, if the injury fully recovers, no payment

of compensation (diyyah) is required. However, if the injury leaves a scar or flaw, diyyah is to be paid.

- In the case of intentional murder or injury, where qisas is required but diyyah is sought, the guilty must pay the diyyah from his own money. If he does not have the money, he should borrow it. From the time of Allah's Messenger till our day, for a poor murderer whose family is also needy, in some cases the Islamic State paid the diyyah to the victim's family.

- When a person is accidentally killed, qisas is not applicable; the diyyah is to be paid.

- Qisas for a murder committed by a child is not required because children cannot fully differentiate between right and wrong so their crimes are perceived as unintentional. If a child and adult accidentally kill another man together, both families of the child and man must pay half a diyyah each to the victim's family.

- If a grown man and a child intentionally murder somebody, the grown man is killed as qisas and the child's family must pay half a diyyah.

- Qisas is not applied for a Muslim who kills a non-Muslim. However if the Muslim plotted a plan and tricked the non-Muslim in order to kill him, qisas is applied.

- If a man beats another man and kills him, this is considered intentional murder and qisas is applied.

- A husband who injures his wife by mistake requires the payment of diyyah, not qisas.

- If a husband intentionally injures his wife, qisas shall be practiced.

- The diyyah for killing a fetus is one tenth of the mother's diyyah. However, a developed fetus that is murdered requires full diyyah.

- A pregnant woman who murders somebody waits until she has given birth, then qisas is practiced.

103. Surah Bakara verse, 178-179

104. Ibn Hazm, *al-Muhalla*, Cairo, 1350-1352, X, 759

- If the intentionally murdered victim was a pregnant woman, the murderer is killed by qisas. The fetus does not require diyyah. However if killed by mistake, diyyah is paid for the blood of the dead woman. Again, no diyyah is required for the fetus.
- Minor injuries to the face or head that do not expose any bones do not require diyyah. Diyyah is required with more severe injuries that reach the bone under the skin. Allah's Messenger, in his letter to Amr b. Hazm about the diyyah has mentioned injuries that reach the bone and the amount of diyyah to be paid for them is five camels.
- If five fingers are severed (cut off), the diyyah of the hand is paid (fifty camels). The diyyah for every finger is ten camels. Every joint of a three jointed finger is worth a third of the diyyah for a finger. This is equivalent to 33.5 dinars.
- If the victim forgives his murderer before he dies, this is accepted.
- If the sons of the murdered victim forgive the murderer but his daughters do not, the forgiveness of the sons is sufficient to drop the punishment.
- If the parent of the victim forgives the murderer, the murderer does not need to pay any diyyah. However, even if the family forgives the criminal, he shall be punished with lashes and imprisonment.
- If the parents of the murdered victim forgive the murderer with the condition that he pays the diyyah, he is required to pay the diyyah.



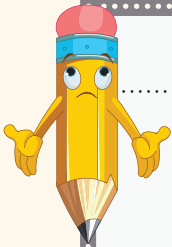
EVALUATION ACTIVITIES

1. What are the general principles in Islam in regards to halal and haram?
2. What are the foods which are unlawful?
3. What is hunting? The hunting of which animals is lawful?
4. Research the correct measures in slaughtering an animal.
5. What is the minimum requirement of cover (clothing) for a woman?
6. What does khalwa sahiha mean? How does it take place?
7. What is the wisdom behind the prohibition of gold and silk for men?
8. What are the rulings associated with perfumes and fragrances.
9. How does imitating the opposite gender occur, and in which situations does this happen? Make a list of them.
10. What are the characteristics of the animals whose meat is haram?
11. Describe the types of yamin (oaths).
12. Give examples of cases where qisas or diyyah are applied.



MATCH THE PAIRS

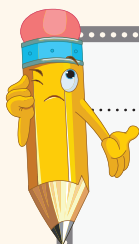
1	Israf		<i>Parts of the body that must be covered</i>
2	'Awra		<i>Swearing by Allah</i>
3	Jilbab		<i>Wasteful expenditure</i>
4	Ta'zeer		<i>Making something obligatory upon oneself</i>
5	Vow		<i>A woman's outer garment</i>
6	Oath		<i>Punishments defined by the Muslim authority</i>



TRUE-FALSE QUESTIONS

1. () The steps leading to something haram are also haram
2. () Sexual pictures, if used for art purposes, are not haram
3. () Deeds are based on the intention. So it is fine to steal money to build a masjid.
4. () A Muslim living in a non-Muslim country may not receive interest
5. () It is permitted to drink alcohol in little amounts
6. () If the hunter forgets to say Basmala during hunting, he may say it before he eats the cooked meat
7. () If the hunted animal has escaped the hunter may shoot him from a distance and kill him.
8. () A person who prays without covering his minor awra should pray it again before the time of this prayer ends.
9. () A woman may expose her ornaments in the presence of a kid.
10. () A prayer performed with transparent clothing on the awra areas is valid.
11. () It is harmless to wear clothing made of animal skin
12. () After ten years of age a child may not sleep in the same bed with the same gender.
13. () Islam does not allow applying eyeliner.
14. () A woman is allowed to dye her hair any colour





MULTIPLE CHOICE QUESTIONS-1

1. Which of the following is not true?
 - A) Necessity legitimizes the unlawful
 - B) The unlawful is haram everywhere
 - C) Good intentions legitimize the unlawful
 - D) Anything not prohibited is permissible
2. Which of the following can be eaten by a Muslim?
 - A) Those slaughtered by a some being's name other than Allah
 - B) Dead animal's meat
 - C) Meat slaughtered by non-Muslims
 - D) Swine
3. There are some prohibitions regarding alcohol. Which of the following is not one of them?
 - A) Every intoxicant is haram
 - B) It is not permitted to be present in a place where alcohol is served
 - C) Even a little is haram of that thing which a lot of it causes intoxication
 - D) It is haram to use anything that contains alcohol
4. Which approach to hunting is not appropriate?
 - A) Hunting for sport
 - B) Hunting with a sharp weapon
 - C) Hunting for food
 - D) Hunting with a trained dog
5. Which one is major awra?
 - A) Knees of a man
 - B) Leg of a man
 - C) Hair of a woman
 - D) Thighs of a woman
6. In terms of Islamic law, which of the following can a woman do?
 - A) Walking coquettishly
 - B) Wearing heels
 - C) Asking men questions
 - D) Wear revealing clothing
7. Which of the following can a Muslim wear?
 - A) Red clothing
 - B) Silk clothing
 - C) Yellow garments
 - D) Swim suits
8. What can a Muslim woman do to beautify herself for her husband?
 - A) Pluck her eyebrows
 - B) Apply eyeliner
 - C) Tattoos
 - D) Wear a wig

**MULTIPLE CHOICE QUESTIONS-2**

9. Which of the following is wrong information about grooming the hair and beard?
- A) It is not permissible to trim the end of the beard
 - B) It is Sunnah to grow the beard and shorten the mustache
 - C) A woman cannot shave her head like a man's
 - D) A woman may dye her hair black
10. Where is it not permissible to act with music?
- A) At war
 - B) On a journey
 - C) Wedding
 - D) Graduation party
11. Which oath requires atonement when violated?
- A) The oath of Ghamus
 - B) The oath of Laghw
 - C) Mun'qid Oath
 - D) The oath made without mentioning Allah's name
12. What is the term used for the punishment of a person who does not obey Islam's principles and laws?
- A) Hadd punishments
 - B) Uqubat
 - C) Ta'zir
 - D) Qisas
13. Which of the following do not require Hadd punishment?
- A) Adultery
 - B) Drinking alcohol
 - C) Gambling
 - D) Slandering a chaste woman

BIBLIOGRAPHY

- BİDAYETÜ'L-MÜCTEHİD VE NİHAYETÜ'L MUKTESİD 1-4 (2 cilt), *Ebü'l-Velid Muhammed b. Ahmed b. Muhammed İbn Rüşd el-Kurtubi*, 606 s., Daru'l Magrife, Beyrut 1997
- BÜYÜK İSLAM İLMİHALİ, *Ömer Nasuhi Bilmen, Sadeleştiren: Ali Fikri Yavuz*, 432 s., Çile Yayınevi, İstanbul 1997
- DELİLLERİYLE İSLAM İLMİHALİ, *Prof. Dr. Hamdi Döndüren*, 928 s., Erkam Yay. İstanbul 2005
- DELİLLERİYLE AİLE İLMİHALİ, *Prof. Dr. Hamdi Döndüren*, 934 s., Erkam Yay. İstanbul 1995
- DELİLLERİYLE TİCARET VE İKTİSAT İLMİHALİ, *Prof. Dr. Hamdi Döndüren*, 636 s., Erkam Yay. İstanbul 1993
- DÖRT MEZHEBİN FIKİH KİTABI (7 Cilt), *Şeyh Abdurrahman el-Cezîrî, Tercüme: Hasan Ege*, 3512 s., Bahar Yay. İstanbul 1995
- EL-KAVÂNİNÜ'L-FIKHİYYE, *Ebu'l-Kâsım Muhammed b. Ahmed b. el-Cüzey*, 390 s., Müessesetü'l-Kütübi's- Sakafıyye, Beyrut 2009
- EL-HÜLÂSATÜ'L-FIKHİYYE ALÂ MEZHEBİ'S-SÂDETİ'L-MÂLİKİYYE, *Muhammed el-Arabî el-Karavî, Tahkik : Yahya Murad*, 442s., Müessesetü'l-Muhtar, Kahire 2009
- GÜNLÜK HAYATIMIZDAKİ HELALLER VE HARAMLAR, *Prof. Dr. Hayreddin Karaman*, 240 s., İz Yayıncılık, İstanbul 2007
- GÜNÜMÜZ MESELELERİNE FETVALAR (4 cilt), *Halil Günenç*, 1297 s., Yasin Yay. İstanbul 2011
- TÜRKİYE DİYANET VAKFI İSAM İLMİHALİ (2 cilt), *Komisyon*, 1176 s., İSAM Yay. İstanbul 2010
- İFAV İSLAM İLMİHALİ, *Komisyon*, 895 s., Marmara İlahiyat Fakültesi Vakfı Yayınları, 5. Baskı, İstanbul 2011
- İHL FIKİH DERS KİTABI, *Komisyon*, 176 s., Milli Eğitim Bakanlığı Devlet Kitapları, 2010
- İSLAM İMAN İBADET, *Osman Nuri Topbaş*, 444 s., Erkam Yay. İstanbul 2000
- İSLAM İLMİHALİ, *Mehmet Dikmen*, 544 s., Cihan Yay. İstanbul 2013
- SORULU CEVAPLI İSLAM FIKHI (8 cilt), *Prof. Dr. Ahmet Şerbâsî*, 4350 s., Özgü Yayıncılık, İstanbul 2010
- İSLAM FIKİH ANSİKLOPEDİSİ (10 cilt), *Vehbe Zuhaylî*, 5150 s., Risale Yay. İstanbul 2011
- İSLAMDA İNANÇ, İBADET VE GÜNLÜK YAŞAYIŞ ANSİKLOPEDİSİ (10 cilt), *Komisyon, Editör: Prof. Dr. İbrahim Kafi Dönmez*, 2286 s., Marmara İlahiyat Fakültesi Vakfı Yayınları, İstanbul 2007
- İSLAM HUKUK TARİHİ, *Prof. Dr. Hayreddin Karaman*, 383 s., İz Yayıncılık, İstanbul 2012
- KADIN VE EVLİLİK, *Prof. Dr. Faruk Beşer*, 160 s., Nun Yayıncılık, İstanbul 2013
- MUKAYESELİ İSLAM HUKUKU (3 cilt), *Prof. Dr. Hayreddin Karaman*, 1605 s., İz Yayıncılık, İstanbul 2012
- SOSYAL İSLAM, *Prof. Dr. Faruk Beşer*, 264 s., Nun Yayıncılık, İstanbul 2008
- ŞAMİL İSLAM ANSİKLOPEDİSİ (6 cilt), *Komisyon*, 2676 s., Şamil Yay. İstanbul 1998
- TÜRKİYE DİYANET VAKFI İSLAM ANSİKLOPEDİSİ (44 cilt), *Komisyon, Editör: Prof. Dr. M. Akif Aydın*, 20500 s., İslam Araştırmaları Merkezi Yay. İstanbul 2013

ANSWERS KEYS



CHAPTER 1

MATCH THE PAIRS

Answers (In order): 5, 6, 2, 1, 3, 4

MULTIPLE CHOICE QUESTIONS

Answers: 1-D, 2-C, 3-B, 4-B, 5-C



CHAPTER 2

MATCH THE PAIRS

Answers (In order): 5, 6, 1, 2, 4, 3

TRUE - FALSE QUESTIONS

Answers: 1-F, 2-T, 3-T

FILL IN THE SPACE QUESTIONS

Answers: 1-urf, 2- Views of the sahaba, 3- sadd al-dharai, 4-istishab, 5-maslahah

WRITE IN THE SECTION ON THE SIDE

Answers (Down): 1-Istihsan, 2-Analogy, 3-urf, 4-Istishab, 5-Maslahah, 6-Sunnah, 7-Istishab, 8-Istihsan, 9- sadd al-dharai, 10-Shar'u man qablana, 11-Istishab, 12-Consensus

MULTIPLE CHOICE QUESTIONS

Answers: 1-B, 2-A, 3-C, 4-B, 5-C, 6-D,



CHAPTER 3

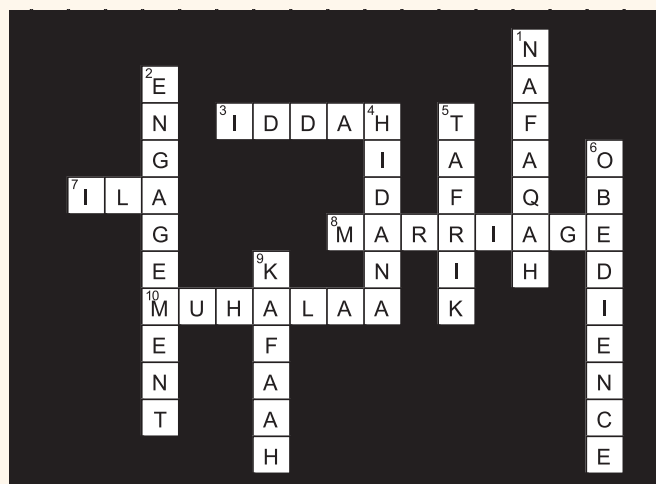
MATCH THE PAIRS

Answers (In Order): 4, 5, 1, 3, 2

TRUE - FALSE QUESTIONS

Answers: 1-T, 2-F, 3-T, 4-T, 5-F, 6-F, 7-F, 8-T, 9-F, 10-T, 11-T, 12-F, 13-T, 14-F, 15-T

CROSSWORDS



MULTIPLE CHOICE QUESTIONS

Answers: 1-B, 2-C, 3-C, 4-D, 5-B, 6-B, 7-A, 8-D, 9-B, 10-A, 11-B



CHAPTER 4

MATCH THE PAIRS

Answers (by order): 4, 6, 5, 3, 1, 2

TRUE - FALSE QUESTIONS

Answers: 1-T, 2-F, 3-T, 4-T, 5-F, 6-T, 7-T, 8-F, 9-T, 10-T, 11-T, 12-T

FILL IN THE SPACE QUESTIONS

Answers: 1- haram, 2- children, wealth, 3- Profiteering, 4- taqwa, aggression, 5- intoxicants, gambling, 6- nasia riba (interest), 7- najash sale, 8- talaqqi al-rukban, 9- fasit condition, 10- grass, fire

WRITE IN THE SECTION ON THE SIDE

Answers (Down): 1-**Unlawful**, 2-**Unlawful**, 3-**Unlawful**,
4-**Unlawful**, 5-**Lawful**, 6-**Lawful**, 7-**Lawful**

MULTIPLE CHOICE QUESTIONS

Answers: 1-**B**, 2-**D**, 3-**B**, 4-**B**, 5-**C**



CHAPTER 5

MATCH THE PAIRS

Answers (In Order): **2, 6, 1, 5, 3, 4**

TRUE - FALSE QUESTIONS

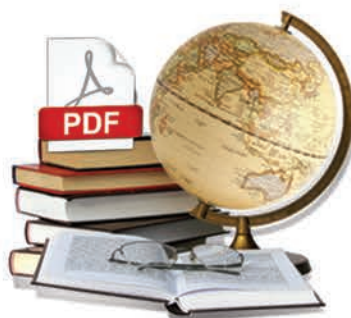
Answers: 1-**T**, 2-**F**, 3-**F**, 4-**T**, 5-**F**, 6-**T**, 7-**T**, 8-**T**, 9-**T**, 10-**F**, 11-**F**, 12-**T**, 13-**F**, 14-**T**

MULTIPLE CHOICE QUESTIONS

Answers: 1-**C**, 2-**C**, 3-**D**, 4-**A**, 5-**D**, 6-**C**, 7-**D**, 8-**B**, 9-**A**, 10-**D**, 11-**C**, 12-**A**, 13-**C**

FOR FREE IN PDF FORMAT

ISLAMIC WORKS



**YOU CAN DOWNLOAD IN PDF FORMAT
1000 BOOKS IN 50 LANGUAGES FOR FREE**

Islamic books in different languages are waiting for you in PDF format at the web site www.islamicpublishing.net

You can download for free books and print, reproduce and diffuse by email to your beloved. You can also read them on your I Pad or iPhone.

English - French - Spanish - Russian - Italian - Portuguese - German - Albanian - Arab - Azerbaijan
Bashkir - Bambara - Bengal - Bosnian - Bulgarian - Chinese - Crimean Tartar - Persian - Dutch - Georgian
Hindi - Hausa - Hungarian - Indonesian - Kazakh - Kazan Tatar - Kyrgyz - Latvian - Lithuanian - Luganda
Meskhetian Turkish - Malaysian - Romanian - Mongolian - Mòoré - Turkmen - Tigrinya - Swahili - Tajik
Amharic - Traditional Chinese - Twi - Ukrainian - Uighur - Uzbek - Wolof - Zarma - Slovene - Urdu - Korean

www.islamicpublishing.net

ERKAM
PUBLICATIONS

